MONTANA LEGISLATIVE HISTORY

Chapter 594 1991

Bill H _____ S 242 Original bill & history ✓ C

H. Committee on ~~Approp~~

Hearing Date(s) 4/03 ___C

4/04 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Bus & Ind

Hearing Date(s) h 2/14 ___C

ex 2/19 ___C

ex 3/14 ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Rules

h 3/11

ex 3/12

h 3/18

ex 3/19

2/14	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	REREFERRED TO RULES		
3/11	HEARING		
3/12	COMMITTEE REPORT—BILL PASSED		
3/12	REREFERRED TO BUSINESS & INDUSTRY		
3/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/14	REREFERRED TO RULES		
3/18	HEARING		
3/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/19	FISCAL NOTE REQUESTED		
3/22	FISCAL NOTE RECEIVED		
3/22	2ND READING PASSED	48	0
3/23	3RD READING PASSED	46	1
	TRANSMITTED TO HOUSE		
3/25	FIRST READING		
3/25	REFERRED TO APPROPRIATIONS		
3/26	FISCAL NOTE PRINTED		
4/03	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	84	13
4/12	3RD READING CONCURRED	86	11
	RETURNED TO SENATE		
4/19	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 594	EFFECTIVE DATE: 4/24/91	

SB 243 INTRODUCED BY MAZUREK

MAKE THE CHIEF WATER JUDGE A MEMBER OF THE JUDGES' RETIREMENT SYSTEM

1/31	INTRODUCED		
2/01	REFERRED TO STATE ADMINISTRATION		
2/01	FIRST READING		
2/01	FISCAL NOTE REQUESTED		
2/07	FISCAL NOTE RECEIVED		
2/08	FISCAL NOTE PRINTED		
2/14	HEARING		
2/16	COMMITTEE REPORT—BILL NOT PASSED		
2/16	ADVERSE COMMITTEE REPORT ADOPTED	37	10
2/18	RECONSIDERED ADOPTION OF ADVERSE COMMITTEE REPORT	39	10
2/19	2ND READING PASSED AS AMENDED	37	12
2/20	3RD READING PASSED	38	12
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO STATE ADMINISTRATION		
3/14	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/20	2ND READING CONCURRED	81	16
3/21	3RD READING CONCURRED	83	16
	RETURNED TO SENATE		
3/28	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 364	EFFECTIVE DATE: 7/01/91	

SB 244 INTRODUCED BY JERGESON, ET AL.

LICENSING BOARD CONSULTATION PRIOR TO PROGRAM EXPANSION

BY REQUEST OF LEGISLATIVE AUDIT COMMITTEE

3/25	3RD READING AMENDMENTS CONCURRED	48	0
3/28	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 329	EFFECTIVE DATE: 7/01/91	

SB 240 INTRODUCED BY VAN VALKENBURG, ET AL.
GENERALLY REVISE FISH & GAME MISDEMEANOR STATUTES
BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

1/31	INTRODUCED		
1/31	REFERRED TO FISH & GAME		
1/31	FIRST READING		
1/31	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/12	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	48	0
2/18	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO FISH & GAME		
3/13	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	90	0
3/18	3RD READING CONCURRED	95	2
	RETURNED TO SENATE		
3/23	SIGNED BY PRESIDENT		
3/23	SIGNED BY SPEAKER		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 277	EFFECTIVE DATE: 7/01/91	

SB 241 INTRODUCED BY BLAYLOCK
PROHIBIT DUAL COMPENSATION FOR CERTAIN ELECTED STATE OFFICIALS

1/31	INTRODUCED		
2/01	REFERRED TO STATE ADMINISTRATION		
2/01	FIRST READING		
2/08	HEARING		
2/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED AS AMENDED	49	0
2/14	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/15	FIRST READING		
2/15	REFERRED TO STATE ADMINISTRATION		
3/08	HEARING		
3/12	TABLED IN COMMITTEE		

SB 242 INTRODUCED BY CRIPPEN, ET AL.
REVISE SCIENCE AND TECHNOLOGY ORGANIZATION, FUNDING, AND PROGRAMS
BY REQUEST OF GOVERNOR

1/31	INTRODUCED
1/31	FISCAL NOTE REQUESTED
2/01	REFERRED TO TAXATION
2/01	FIRST READING
2/04	REREFERRED TO BUSINESS & INDUSTRY
2/05	FISCAL NOTE RECEIVED
2/07	FISCAL NOTE PRINTED

SENATE BILL NO. 242

INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,
THAYER, WILLIAMS
BY REQUEST OF THE GOVERNOR

IN THE SENATE

JANUARY 31, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 4, 1991	ON MOTION, REREFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 19, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1991	PRINTING REPORT.
	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON RULES.
MARCH 12, 1991	ON MOTION, TAKEN FROM RULES COMMITTEE AND REREFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 14, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON RULES.
MARCH 15, 1991	PRINTING REPORT.
MARCH 19, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 20, 1991	PRINTING REPORT.
MARCH 22, 1991	SECOND READING, DO PASS.
MARCH 23, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 46; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 25, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
	FIRST READING.
APRIL 4, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 11, 1991	SECOND READING, CONCURRED IN.
APRIL 12, 1991	THIRD READING, CONCURRED IN. AYES, 86; NOES, 11.
	RETURNED TO SENATE.

IN THE SENATE

APRIL 13, 1991	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 242

INTRODUCED BY Copps Dave Brown Larry Hal Grimes

BY REQUEST OF THE GOVERNOR Wilson

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES; CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS 2-15-1818, 17-6-308, 90-3-101, 90-3-102, AND 90-3-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1818, MCA, is amended to read:

"**2-15-1818. Montana board of science and technology development -- allocation -- composition -- quasi-judicial powers.** (1) There is a Montana board of science and technology development. The board is allocated to the department of commerce. The department shall select, prescribe the duties for, and supervise staff to administer board activities.

(2) The board consists of nine members appointed by the governor as prescribed in 2-15-124.

(3) In making appointments to the board, the governor shall consider people with extensive interest and experience in science and technology and the application of such interest and experience to economic development in Montana.

(4) The membership of the board must include:

(a) at least ~~two~~ three members with knowledge of early stage financing of private businesses;

(b) at least one member with expertise in applied technology development; and

(c) at least five members from the private sector.

(5) The board is designated a quasi-judicial board for purposes of 2-15-124."

Section 2. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsection (4), the Montana in-state investment fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee, in lieu of the actual acquisition of ~~such~~ the loans or bonds.

(2) The board may use the in-state investment fund to guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,

or Title 90, chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule establish the maximum ratio between guaranty funds available and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain ~~such~~ the ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed ~~$3,000,000~~ $3 million with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein. The board may agree in connection with the issuance of bonds or notes secured by such account or fund to make such loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science

and technology development provided for in 2-15-1818 to administer $7.5 million of the in-state investment fund for seed capital project loans and $5.1 million of the in-state investment fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994, for seed capital project loans and June 30, 1993, for research and development project loans. Until ~~such time as~~ the Montana board of science and technology development makes a loan pursuant to ~~those~~ the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201."

NEW SECTION. **Section 3.** **Allocation of funds.** The $5.1 million of the in-state investment fund to be used for research and development project loans is allocated as follows:

(1) $600,000 to meet state matching fund requirements for the national science foundation awards to the center for interfacial microbial process engineering;

(2) $3.5 million for loans relating to but not limited to the centers of excellence program and the Montana entrepreneurial center and to meet state matching fund requirements for the national science foundation's experimental program to stimulate competitive research; and

(3) $1 million for medical facility research and

development project loans provided that:

(a) a loan may not be less than $200,000 or more than $500,000; and

(b) a dollar-for-dollar matching requirement from federal or private sources is required.

Section 4. Section 90-3-101, MCA, is amended to read:

"90-3-101. Short title -- findings -- purpose. (1) This chapter may be cited as the "Montana Science and Technology Financing Act".

(2) The legislature finds and declares that:

(a) it is the policy of the state of Montana to promote the health, safety, and general welfare of all the people of the state;

(b) this policy will be furthered through strengthening and diversifying the state's economy by facilitating a public sector-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a changing economic structure and to create new jobs and expand business opportunities;

(c) this strengthening and diversification will be fostered by assisting in the acceleration of development of technology in the state through participation with the private sector in the financing of science and technology development projects that have significant potential for commercialization in Montana;

(d) the in-state investment fund created through adoption of Initiative Measure No. 95 by the voters of Montana in 1982 is the appropriate source for providing financing programs for the development of new and expanding businesses in Montana; and

(e) ~~the Science and Technology Development Board Seed Capital Bond Act contained provisions that were found to be unconstitutional by the Montana supreme court, and the 51st legislature of the state of Montana must remedy those defects through legislation; and~~

~~(f)~~ the Montana science and technology development board has demonstrated success in forging a partnership among the private sector, the university community, and government, and this success should be continued through an ongoing legislative commitment to the board's programs.

(3) The purposes of this chapter are to:

(a) strengthen and diversify Montana's economy by establishing a public-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a transforming economic structure and to create new jobs and expand small business opportunities;

(b) provide a funding source for the board to make seed capital project loans;

(c) provide a mechanism for the board to use in making

seed capital project loans; and

(d) provide a mechanism and a funding source for the board to use in making research and development project loans~~,--the-funding-source--of--which--will--be--provided--by separate-legislation.~~"

Section 5. Section 90-3-102, MCA, is amended to read:

"**90-3-102. Definitions.** As used in this chapter the following definitions apply:

(1) "Act" means the Montana science and technology financing act.

(2) "Board" means the Montana board of science and technology development provided for in 2-15-1818.

(3) "Company" means a firm, partnership, corporation, association, or any other entity authorized to conduct business in Montana.

(4) "Convertible debenture" means a debenture convertible into stock under certain conditions by any individual or company. The debenture may not be converted by the board.

(5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(6) "Department" means the department of commerce created in 2-15-1801.

(7) "Expansion capital project" means a science and technology development project undertaken to enable a

company to expand its manufacturing and marketing activities in order to move its products or services into new markets or to expand existing markets.

(8) "Innovative technology" means the involvement of a product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(9) "Matching funds" means the funds received in cash by the science and technology development project loan recipient from nonstate-appropriated sources and committed by the loan recipient to the project in an amount that is at least equal to the funds loaned to the recipient by the board for use in the science and technology development project.

(10) "Medical facility research and development project" means a research and development project designed to advance the development and operation of facilities that concentrate on fields of medical research involving advanced technology applied to national medical concerns through the financing of personnel, equipment, and operating costs with the goal of establishing the facilities as enduring research organizations in Montana.

~~(10)~~(11) "Portfolio company" means a startup or

expansion stage company that has received a seed capital project loan from the board.

~~(11)~~(12) "Private sector" means any entity or individual, not principally a part of or associated with a governmental unit, that is associated with or involved in commercial activity.

~~(12)~~(13) "Research and development project" means a science and technology development project that falls into the category of research capability development, applied technology research, or technology transfer and assistance.

~~(13)~~(14) "Research and development project loan" means a science and technology development project loan entered into between the board and a loan recipient for a research and development project.

~~(14)~~(15) "Science and technology development project" means either a seed capital project or research and development project designed to discover, develop, transfer, utilize, or commercialize existing or new, innovative technology in order to strengthen and enhance economic development in Montana.

~~(15)~~(16) "Science and technology development project loan agreement" or "loan" means an agreement entered into between the board and the loan recipient of a seed capital project loan or a research and development project loan that:

(a) creates a debt relationship between the parties;

(b) provides for a financial return to the board;

(c) provides economic development potential to the state; and

(d) contains the applicable provisions and terms required by this chapter.

~~(16)~~(17) "Seed capital project" means a startup capital project or expansion capital project.

~~(17)~~(18) "Seed capital project loan" means a science and technology development project loan entered into between the board and a loan recipient for a seed capital project.

~~(18)~~(19) "Startup capital project" means a science and technology development project that assists a company in initiating commercial operations.

~~(19)~~(20) "State" means the state of Montana.

~~(20)~~(21) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 6. Section 90-3-301, MCA, is amended to read:

"**90-3-301. Appropriation authority and funding -- matching funds.** (1) The board has authority to accept and expend all funds received by it as grants, donations, or other private or public income. These funds are statutorily appropriated as provided in 17-7-502.

(2) The appropriations and loans made to and by the board are in addition to and separate from general fund appropriations to the university system and other state agencies.

(3) A loan may not be made for a seed capital project for which matching funds have not been received. Matching funds are required prior to any expenditure of board funds for ~~research and development projects or~~ all seed capital projects. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds, depending on the capital need and the degree of risk encountered in the ~~science and technology development~~ seed capital project.

(4) A loan may not be made for a research and development project for which matching funds have not been received unless the matching fund requirements are waived by the board pursuant to this section. Matching funds, when required, must be received before expenditure of board funds for a research and development project loan may be made. The board may waive the required match for up to 25% of the funding for research and development project loans if the board determines that the capital need and potential commercialization of the research and development project, in addition to its potential to strengthen the partnership

between the public sector and private sector, warrant the waiver. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds depending on the capital need in the research and development project."

NEW SECTION. **Section 7.** **Intellectual property assessment.** The university system shall conduct an assessment of its intellectual property management programs and policies. Based on the assessment, the board of regents shall consider the adoption of a system of intellectual property management that will provide a coordinated and effective method of meeting payback requirements for research and development project loans made to organizations, individuals, and other entities within the university system. The assessment must be coordinated with the Montana board of science and technology development, and a final report and recommendations must be presented to the board by January 1, 1992.

NEW SECTION. **Section 8.** **Coordination instruction.** If ____Bill No.____ [LC 15] is passed and approved, if it includes a section that amends 17-6-308, and if it includes amendments that replace references to the "in-state investment fund" with "permanent coal tax trust fund", then in [section 3 of this act, amending 17-6-308(4)], the code

commissioner shall make a similar change.

NEW SECTION. **Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0242, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing funding from the in-state investment fund for research and development project loans; providing for medical facility research and development project loans; requiring at least three members of the Board of Science and Technology Development to have knowledge of early state financing of private businesses; changing matching fund requirements for research and development projects; requiring the university system to assess intellectual property management; amending sections 2-15-1818, 17-6-308, 90-3-101, 90-3-102, and 90-3-301, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. Pursuant to the provisions of the Montana Science and Technology Financing Act, the Montana Science and Technology Alliance (MSTA) of the Department of Commerce will administer the proposed research and development loans. MSTA will need an additional 1.00 FTE at grade 18/step 2 to administer the loan program.
2. MSTA will be authorized to lend $5.1 million of in-state investment funds as follows: $600,000 for matching state funding requirements for national science foundation awards; $3.5 million for loans relating to the stimulation of competitive research; and $1.0 million for medical facility research and development project loans.
3. Projects must have matching funds from nonstate appropriated sources to qualify for loans. The Science and Technology Development Board may waive the required match for up to 25% of research and development loan funds.
4. The authority to lend in-state investment funds does not extend beyond June 30, 1993. The entire amount of the proposed $5.1 million of lending authority must be obligated by MSTA within the 1993 biennium.
5. Pursuant to the provisions of 90-3-525, MCA, debt payments on loans will be deposited into the science and technology development account and appropriated as follows: 100% of the principle will be returned to the in-state investment fund, 15% of interest earnings will be appropriated to the state equalization aid account, and 85% of interest earnings will be appropriated to the general fund.
6. Administrative costs will be paid from a $50,000 general fund appropriation for each year of the 1993 biennium.
7. In conjunction with the university system, MSTA will provide the initial operating supplies and materials for the intellectual property management assessment.
8. Under current law, the general fund and state equalization aid account would receive the interest earnings from the $5.1 million transferred from the in-state investment fund to MSTA. Interest earnings on the in-state investment fund will decrease following the transfer of funds. Interest earnings will gradually increase as the principle amount of the loans are returned to the in-state investment fund.
9. MSTA has unencumbered approximately $6.3 million of the $7.5 million appropriated in 17-6-308(4) for seed capital projects. MSTA's authority to lend the above funds does not extend beyond June 30, 1994.
10. Current law is represented by the FY92-93 executive budget recommendation for the MSTA.

FISCAL IMPACT:

see next page

2-5-91

ROD SUNDSTED, BUDGET DIRECTOR — DATE
Office of Budget and Program Planning

2-7-91

BRUCE D. CRIPPEN, PRIMARY SPONSOR — DATE

FISCAL IMPACT:

Science & Tech Alliance:	FY 92			FY 93		
Expenditures	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	1.00	2.00	1.00	1.00	2.00	1.00
Personal Services	206,654	244,967	38,313	206,206	244,519	38,313
Operating Costs	237,900	249,587	11,687	248,071	259,758	11,687
Local Assistance	6,359,750	8,909,750	2,550,000	4,554,400	7,104,400	2,550,000
Total	6,804,304	9,404,304	(2,600,000)	5,008,677	7,608,677	(2,600,000)
Funding:						
General Fund	495,054	545,054	50,000	492,777	542,777	50,000
State Special	15,000	15,000	0	20,000	20,000	0
In-State Investment Fd	6,294,250	8,844,250	2,550,000	4,495,900	7,045,900	2,550,000
Total	6,804,304	9,404,304	2,600,000	5,008,677	7,608,677	2,600,000
Revenues:						
General Fund	153,000	0	(153,000)	307,700	0	(307,700)
State Equalization Aid	27,000	0	(27,000)	54,300	0	(54,300)
Total	180,000	0	(180,000)	362,000	0	(362,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Recent assessments by the National Governors' Association have concluded that expenditure of state funds for applied research projects have led to long-term growth potential technologies resulting in the re-creation of high-quality jobs and the expansion of local tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

MSTA's research and development project loans will generate approximately $7.1 million in principal and interest payments over a ten year period which will be distributed as follows:

Principal to the In-State Investment Fund:	$5,100,000
State Equalization Aid Account (15%):	$ 300,000
General Fund (85%):	$1,700,000
Total:	$7,100,000

SB 242

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0242, second reading, amended.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing funding from the in-state investment fund for research and development project loans; providing for medical facility research and development project loans; requiring at least three members of the Board of Science and Technology Development to have knowledge of early state financing of private businesses; changing matching fund requirements for research and development projects; requiring the university system to assess intellectual property management; and providing an immediate effective date.

ASSUMPTIONS:

1. Pursuant to the provisions of the Montana Science and Technology Financing Act, the Montana Science and Technology Alliance (MSTA) of the Department of Commerce will administer the proposed research and development loans. MSTA will need an additional 1.00 FTE at grade 18/step 2 to administer the loan program.
2. MSTA will be authorized to lend $5.1 million of in-state investment funds as follows: $600,000 for matching state funding requirements for national science foundation awards; $3.5 million for loans averaging $40,000 each and relating to the stimulation of competitive research; and $1 million for medical facility research and development project loans.
3. Projects must have nonstate matching funds to qualify for loans. The Science and Technology Development Board may waive the required match for up to 25% of research and development loan funds.
4. The authority to lend in-state investment funds does not extend beyond June 30, 1994.
5. The payback of principal and earnings on a seed capital project loan or on a research and development project loan from the Montana in-state investment fund will be deposited as follows: 100% of the principle will be returned to the in-state investment fund, 15% of interest earnings to the state equalization aid account, and 85% of interest earnings to the general fund (17-6-306).
6. Administrative costs will require a $50,000 general fund appropriation each year of the 1993 biennium.
7. Under current law, the general fund and state equalization aid account would receive the interest earnings from the $5.1 million transferred from the in-state investment fund to MSTA. Interest earnings on the in-state investment fund will decrease following the transfer of funds. Interest earnings will gradually increase as the payback on loans are returned to the in-state investment fund.
8. MSTA has unencumbered approximately $6.3 million of the $7.5 million appropriated in 17-6-308(4) for seed capital projects. MSTA's authority to lend the above funds does not extend beyond June 30, 1994.
9. Current law is represented by the FY92-93 executive budget recommendation for the MSTA.

FISCAL IMPACT:

see next page

3-22-91

ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3-28-91

BRUCE D. CRIPPEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0242, second reading, amended. SB 242-2

FISCAL IMPACT:

Science & Tech Alliance:	FY 92			FY 93		
Expenditures	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	1.00	2.00	1.00	1.00	2.00	1.00
Personal Services	206,654	244,967	38,313	206,206	244,519	38,313
Operating Costs	237,900	249,587	11,687	248,071	259,758	11,687
Local Assistance	6,359,750	8,909,750	2,550,000	4,554,400	7,104,400	2,550,000
Total	6,804,304	9,404,304	2,600,000	5,008,677	7,608,677	2,600,000
Funding:						
General Fund	495,054	545,054	50,000	492,777	542,777	50,000
State Special	15,000	15,000	0	20,000	20,000	0
In-State Investment Fd	6,294,250	8,844,250	2,550,000	4,495,900	7,045,900	2,550,000
Total	6,804,304	9,404,304	2,600,000	5,008,677	7,608,677	2,600,000
Revenues:						
General Fund	153,000	0	(153,000)	307,700	0	(307,700)
State Equalization Aid	27,000	0	(27,000)	54,300	0	(54,300)
Total	180,000	0	(180,000)	362,000	0	(362,000)
General Fund Impact (decrease)			(203,000)			(357,700)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Recent assessments by the National Governors' Association have concluded that expenditure of state funds for applied research projects have led to long-term growth potential of the targeted technologies, resulting in the creation of high-quality jobs and expansion of local tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

MSTA's research and development project loans from July 1, 1991, through June 30, 1994, will generate approximately $7.1 million in principal and interest payments over a ten-year period which will be distributed as follows:

Principal to the In-State Investment Fund:	$5,100,000
State Equalization Aid Account (15%):	$ 300,000
General Fund (85%):	$1,700,000
Total:	$7,100,000

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on February 14, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 242

Presentation and Opening Statement by Sponsor:

Senator Bruce Crippen, sponsor of the bill, stated that this bill was by request of the governor. In 1985, the Montana board of science and technology development was created. The board's mission was to strengthen and diversify the state's economy by facilitating a public private sector relationship. Over the past five years the alliance has invested approximately one point five million dollars for businesses with private financing, and two point six million dollars in research and development projects. This bill will provide five point one million dollars in research and development project loans. There are three major areas of funding that is represented in the five point one million dollars-the engineering and research center on Montana state university, national science foundation projects in Montana, and the medical facilities for research and development projects.

Proponents' Testimony:

Representative Dorothy Bradley, district 79 in Bozeman, spoke in favor of the bill. Since 1985 our legislature has had a very enthusiastic and a very successful effort coalitions supporting the Montana science and technology developments in Montana. This bill is to reinstitute and expand what we started out with in 1985. Research and development is a key part of any science and technology program in Montana. It is in essence the first link of a long chain of trying to develop and find new products that will solve Montana's problems, it will create commercial opportunities, and create jobs for our young people.

Chuck Brooke, director of the department of commerce, stated that the administration strongly supports this bill. He called the committee's attention to the winter issue of the Montana business quarterly, the feature issue is the high tech industry in Montana. Montana state university has had twenty six patents due to their research. There are six start up companies that are derived from this research.

Annie Bartose, a member of the board of science and technology, she stated that the chairman of the board was not able to attend the committee hearing today so she read his testimony for him (See Exhibit 1).

Carl Russell, executive director of the Montana science and technology alliance, spoke in favor of the bill (See Exhibit 2 and Exhibit 2A).

David Toppen, deputy commissioner for academic affairs for the university system of Montana and a member of the Montana science and technology advisory board, spoke in favor of the bill. The university system is involved in what will hopefully become a long term productive partnership with the department of commerce, and with the business community in the state of Montana. A major fraction of the funding that the committee is asked to approve of today, is devoted to research programs that are conducted on the campus and managed by the Montana university system. Part of the funding will support the experimental program to stimulate competitive research. He submitted a letter from Andre Corbeau for the center of entrepreneurship at the Billings eastern Montana college (See Exhibit 3).

Jon Marchi, representing himself and the Montana private capital network as a director and officer, spoke in favor of the bill (See Exhibit 4).

Kay Lutz-Ritzheimer, executive director Montana entrepreneurship center, spoke in favor of the bill (See Exhibit 5, Exhibit 5A, Exhibit 5B).

Ann P. Keenan, Bozeman director Montana entrepreneurship center, Montana state university, spoke in favor of the bill (See Exhibit 6).

Richard Larson, mayor of Billings, spoke in favor of the bill (See Exhibit 7).

Jay Kirkpatrick, Ph.D., vice president board of directors Deaconess research institute; associate professor of physiology, department of biological sciences, eastern Montana college, spoke in favor of the bill (See Exhibit 8).

Richard Potter, Ph.D., vice president of research and development for basic bio systems, inc., spoke in favor of the

bill (See Exhibit 9).

Pete Thatcher, representing the engineering research center, Montana state university, spoke in support of the bill (See Exhibit 10).

Al Swanson, representing the deaconess research institute, spoke in favor of the bill (See Exhibit 11 and Exhibit 11A).

George Carlson, director of McLaughlin research institute in Great Falls, he stated that if investigators can see that the state is willing to support the research institute it could be a major factor in recruiting procedures into the state.

Samuel Worcester, director of advanced minerals and hazardous waste processing center of excellence, Montana tech, submitted written testimony in support of the bill (See Exhibit 12).

Walt Hill, director of center of biotechnology, spoke in favor of the bill. The present budget indicates that four point one billion dollars of federal money is going to be spent in the next year to enhance biotechnology. Thirty four states in the union have biotechnology centers, generally they are supported in the area on one point seven million dollars per year, per center. Mr. Hill quoted Dan Quayle in saying, "We'll continue to work on strategy to achieve potential help by biotechnology research. Biotechnology is a science and industry projected to reach fifty billion dollars by the end of the decade."

Dixie Swenson, executive director of the Gallatin development corporation in Missoula, stated that they are in strong support.

Steve Huntington, representing the Montana technology companies, stated that they are in support of the bill.

Chris Gallus, director of the business development center in Butte, stated that he supports SB 242.

Kay Foster, Billings area chamber of commerce, stated that they are in support of the bill.

Jim Smitham, economic development specialist, Montana power company, stated that they support the bill.

Buck Boles, president of the Montana chamber, stated that he is in support of the bill.

Edward Dratz, professor of chemistry, Montana state university, spoke in favor of the bill (See Exhibit 13).

Opponents' Testimony:

None

Questions From Committee Members:

Senator Franklin asked if Jon Marchi could comment further on the research and development grant that he had commented on earlier.

Jon Marchi stated that approximately two tenths of 1% actual cash returned to date from January 31, 1991. There are no cash returns on most loans.

Senator Thayer stated that there was twenty six patents that resulted in six start up companies here in Montana as stated in testimony. He asked what happened to the other twenty patents.

Carl Russell stated that there is an addition towards the end of the bill that is the whole control of the intellicular property process. It is in that process that the university internally are going to be able to create those patents, and put them in a position to bring them out of the companies.

Senator Thayer asked if Carl Russell was in support of the amendments offered.

Carl Russell stated that he hadn't seen the amendments, but had heard them in testimony and is in support.

Closing by Sponsor:

Senator Crippen closed.

ADJOURNMENT

Adjournment At: 11:45 a.m.

J.D. LYNCH, Chairman

DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

Business&Industry COMMITTEE

DATE 2/14/91

____ LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 2/14/91
BILL NO. SB 242

STATEMENT OF
Chase Hibbard, Chairman
Montana Board of Science and Technology Development

PREPARED FOR THE
Senate Business and Industry
February 14, 1991

on
SB242

Our old research and development portfolio was funded with an appropriation and payback history to date has been 2/10th of one percent. All these loans were made before the White decision under less strict lending criteria. As a result of the White decision, the Supreme Court required specific criteria to be followed when making research and development loans.

A new structure of disbursements is now required and our lending activities will be different than the loans made under our previous research and development portfolio. Our new criteria does not refer to grants. Section 90-3-505 and 506, which set forth goals and criteria for making research and development loans, refer specifically to loans. Carl Russell will provide specifics on these in his testimony. Section 90-3-524, specifically calls for research and development loans to be structured as contracted debt with a "payback of two times the original amount paid as a percentage of the income stream derived from sales or other commercialization of products or processes developed with the Board's financing." The section goes on to allow 10 percent of our annual allocation of research and

development funds to be exempt from monetary payback as long as they are used for technology transfer and technical assistance and indirect benefits such as job creation can be considered as payback.

Under the old portfolio with less strict criteria and funded by an appropriation, it was easier to justify payback in terms of indirect benefits of job creation or furthering the goals of technology development and research. The new post White decision criteria are more strict only allowing loans to be made with monetary payback requirements on 90 percent of the dollars disbursed. This Board takes its statutory responsibilities very seriously, and particularly in light to the fact that SB242 is not an appropriations bill. We do not intend to make grants under our research and development portfolio, but will follow the statutory guidelines carefully.

Thank you for your attention and I am sorry for my inadvertent absence.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 2/14/91
BILL NO. SB 242

Testimony in Support of MSTA Research and Development Program Financing-SB 242

I. Introduction

Dear Mr. Chairman, members of the committee and ladies and gentlemen, my name is Carl Russell, and I am the Executive Director of the Montana Science and Technology Alliance. For those of you who may not be familiar with the Alliance, I will take a few moments to briefly describe the program.

The Montana Science and Technology Alliance is an agency connected to the Montana Department of Commerce. The Alliance was originally founded to strengthen the state's economy through the use and development of innovative technology. Historically, Montana's economy has been based on resource extraction and agriculture. It is the state's policy to enhance these basic industries by adding value to Montana's natural resources, and at the same time diversify the state's economy.

The Alliance manages two investment funds. The largest and most prominent fund is the "Seed Capital Investment Fund". This fund consists of $7.5 million from the State Coal Severance Tax Trust Fund. From this fund, MSTA makes investments in new and expanding Montana companies which are engaged in developing and marketing technology-based products or processes. To meet its legislative

mandate to receive a market rate of return while helping to improve the Montana economy, MSTA makes its investments in the same manner as private sector venture capital firms. This manner of operating makes MSTA unique in Montana and the northern Rocky Mountain region because no other organization in this region conducts itself as a venture capital investor. Since its inception in 1985, the program has placed $1.9 million in seed capital financing in Montana businesses.

The Alliance's other program, which is the subject of the legislation before you, is the Research and Development Program. This program's funding is used for projects which generally benefit the state's capabilities in the areas of technology development and entrepreneurial enterprise. To manage this fund, MSTA works closely with the Montana University System and other private and public research institutions. The Alliance is currently concentrating on five projects to achieve the greatest impact from the limited funding in this program and to involve as much of the state's research community as possible. Those projects include the "Centers of Excellence" in Biotechnology involving the University of Montana and Montana State University; Minerals and Hazardous Waste Processing involving the Montana College of Mineral Science and Technology, MSU, and UM; Advanced Materials involving MSU and Tech; the Center for Interfacial Microbial Process Engineering at MSU; and the Montana Entrepreneurship Center involving the Schools of Business Administration at UM, MSU, and Eastern Montana College. I must say, however, that the R and D program up to this point was not

implemented under the very strict criteria which you all set up for Montana Science and Technology in 1989. The early R and D program did not have the same concerns for payback to the state that I will mention later in my remarks.

Since 1985, $2.6 million has been advanced for research and development, matching $2.9 million in non-state appropriated sources. The Alliance's research and development fund and seed capital fund are intended to complement one another; that is, applied research projects may be commercialized using seed capital funding from the Alliance. However, in recent years the Alliance has had limited funds to direct towards its research and development efforts. (Refer to the Biennial Report attached)

As part of the process to move Montana and its science and technology development forward into the 1990's and the twenty-first century, the Governor issued an Executive Order creating the Montana Science and Technology Advisory Council in October of 1990. The purpose of the council is twofold. First, to develop and recommend a state science and technology plan to the MSTA board. After approval by the Board, the plan will be presented to the Governor and forwarded to you in the legislature. Second, the council will review and comment to MSTA on specific applications for research and development projects.

II. The Legislation

The proposed legislation will allow the Alliance to continue with

its research and development efforts, and implement the recommendations of the science and technology development plan.

Specifically, the legislation would make available $5.1 million from the in-state investment fund for research and development project loans, pursuant to the provisions of Title 90, chapter 3. The MSTA board could loan these funds during the biennium ending June 30, 1993. There is approximately $60 million in the in-state investment fund, $20 million of which is in short-term investments. The $5.1 million in this legislation, would, during the biennium, be drawn from the short-term investment pool.

Out of the $5.1 million, $600,000 will be used to meet matching fund requirements for the National Science Foundation award to the Center for Interfacial Microbial Process Engineering at MSU. This Center has already received a $7.5 million commitment from NSF. $3.5 million will be used for loans to NSF's Experimental Program to Stimulate Competitive Research, the Montana Entrepreneurship Center, the Montana Centers of Excellence, and other MSTA research and development project loans. Last, $1 million will be available for medical facility research and development project loans. All of these loans will be made pursuant to The Montana Science and Technology Financing Act passed by the legislature in 1989. The Act governs MSTA regarding criteria for funding. I will spell out this criteria for you in a few minutes.

The funding provided in this legislation is critical to the improvement of Montana's educational infrastructure. The research supported by this funding will attract and retain high-quality faculty, researchers and students, will enhance the University System's reputation, and will ensure the continued flow of Federal grant money into the state. Such funding will increase the collaboration between business and university researchers which tends to commercialize products and processes even quicker.

But the primary purpose of the legislation is not simply to improve the research capabilities of the University System. The program will result in many other positive impacts for the state of Montana. Importantly, the research and development program is designed to provide financing opportunities to the MSTA seed capital fund by increasing its deal flow. Applied research projects will be targeted, and priority will be given to projects that will have the potential for commercialization. Applied research that is funded will result in the generation of a commercially viable product or process, around which a company can be formed, creating an investment opportunity for the Alliance's seed capital fund.

An example of this is a $52,600 loan made to the phyto availability soil test project at MSU under the direction of Dr. Earl Skogley. This research project has matured to the point that a business plan is being written to create a company commercializing the soil test. If the Alliance's investment criteria are met, seed capital funding can be made available to the company. Obviously, investment in an

early-stage, technology-based company which reaches a significant level of success would have many benefits for the state's economy.

Another example of the Alliance's research and development efforts is the loan made to Western Energy Company in 1986. In that year, the Alliance placed $350,000 in the company to conduct research and engineering studies on the coal conversion process. The conversion process takes low quality coal and increases its heating value by reducing moisture, ash, and the sulfur content. Last year, it was announced that the DOE would finance $34 million of the cost of a five year demonstration project. The immediate benefits to the Montana economy and potential benefits to the Montana coal industry will be significant.

A successful research and development program will employ people, will generate state and local taxes, will use local contractors, will result in the purchase of equipment and supplies, will increase the number of visitors to the state, resulting in increased tourism and conferences, and will benefit a variety of business spin-offs in the local economies.

These loans will not only be directed toward applied research projects, but will have payback provisions designed to preserve the in-state investment fund. In the recent past, the Alliance has required a payback on its research and development project loans. Generally, these terms have stated that a royalty be paid to the Alliance upon the commercialization resulting from the research

conducted. The Alliance will continue to loan funds under such terms that assure a payback will come to the state from successful projects.

The time frame associated with payback of the loans is long-term. The primary purpose of the loans is not to generate income such as a loan from a conventional financial institution; rather the primary purpose is to promote the development of research and development infrastructure in the state and to create technologies that have commercial potential.

Realizing commercial potential will take many months and often years. The particular research products must find, not only a fit within the marketplace, but also will need a home from which to be developed. In other words, either a company will need to be created or an existing company would need to buy a license to develop, market and sell the product. Reaching this stage of development is a tedious and purposeful process leading to the point where a viable business entity can gain profits from the sale of the products and thereby generate returns to the researcher, the university and the state. Because of this situation it is incumbent upon the Science and Technology Board to select those research and development projects that will tend to reach the marketplace quicker and could have a higher potential for success. Such selectivity certainly is possible and is the goal of the Alliance. Not only are we charged with creating the economic benefits I have mentioned but we also have the fiduciary responsibility to the in-state investment fund to

protect and grow its corpus.

Because of the White case, which struck down Montana Science and Technology Alliance's original funding methodolgies, in 1989, the criteria used by the Montana Science and Technology Development Board in approving both Seed Capital and R and D projects were tightened substantially. The Board cannot do grants. The Board cannot do loans that look like grants. They can only invest monies into R and D projects that meet very strict goals and criteria spelled out in the existing legislation, i.e., Section 90-3.MCA. These goals and criteria will lead to the development of an R and D program that will create payback to the instate investment fund.

Very specifically the following must be met:

General Criteria-projects to be favorable determined as:

(a) consistent with the general legislative findings,
(b) tending toward collaboration b/t public and private sectors,
(c) having prospects of achieving commercial success and creating jobs,
(d) has potential for commercial success for the product or process proposed,
(e) having ability to provide matching funds, and
(f) having a management structure to assure continued involvement by MSTA.

Criteria for making R and D loans:

(a) project will diversify and add value to basic industry,
(b) a clear path to commercialization is evident,
(c) a university involvement exists wherever practical,
(d) project takes advantage of existing R and D strengths within state (university and/or private),

(e) project has a realistic and achievable design,
(f) project develops or employs innovative technology,
(g) project is located in the state, and
(h) project team possesses the sufficient and appropriate expertise.

Loan agreements must contain the following:

(a) budget,
(b) milestones (financing, commercialization, etc.),
(c) certain reports (esp. commercialization progress),
(d) disbursement for the loan,
(e) payback to MSTA,
(f) default provisions, and
(g) intellectual property provisions.

As you can see these are loans that must meet very tight criteria to gain Montana Science and Technology Alliance funding. There is, through this methodology, a very clear path created within this program for the state to receive payback.

An additional item in the legislation that will help to assure payback to the state is the requirement placed upon the University System to assess and restructure their management of intellectual property. Intellectual property management is a process whereby the research, inventions, etc. are protected through patents, copyrights, trademarks or trade secrets. The Alliance will be working with the University System to create a system that is fair and equitable to all those participating: faculty, researchers, collegiate departments, the university units and the state. The purpose is to support positive, first-rate research that will lead to creation of wealth here in Montana.

Financing programs similar to the one proposed in the legislation have been instituted in other states, such as the Pennsylvania Ben Franklin Partnership, Thomas Edison in Ohio, etc., with positive financial benefits deriving to the states. These are not only the economic development benefits I mentioned but also wealth returned through patents, licenses and financial payback to the state treasuries.

Over a ten-year period, it is our best estimate that the $5.1 million in principal and $2.0 million in interest will be earned as a result of the loan program. However, the benefits to the state will not come solely in the form of interest payments, but also in the building of the research and development infrastructure within the University System and the creation of technology-based businesses as a result of the financing.

III. Conclusion

The Alliance has been given the mission of funding applied research, transferring technology with commercial potential, and funding early stage technology-based companies. This mandate is provided in the Alliance's enabling legislation. We have a track record of funding applied research and placing equity-style financing in early stage technology-based companies. However, the Alliance and our partners in the University System and in Montana's businesses have operated with minimum levels of research and development funding. This legislation will give the Alliance the tools it needs to carry out this mandate.

Montana Science & Technology Alliance

1991 BIENNIAL REPORT

MONTANA
Entrepreneurship Center

Kay Lutz-Ritzheimer

Higher education can play a significant role in economic development as demonstrated by other states across the nation. The newly-established Montana Entrepreneurship Center will use the strengths of Montana's university system to address business development and economic diversification, creating the infrastructure necessary to encourage and support entrepreneurship and small-business development.

The center is the cooperative effort of the University of Montana, Montana State University, and Eastern Montana College and is funded by the Montana Science and Technology Alliance. All six units of the Montana University System are represented in the center with offices at three campuses: the University of Montana, Montana State University and Eastern Montana College. All offices will open to the public this month.

The University System Assisting the State's Business Community

By Kay Lutz-Ritzheimer

Montana Needs Development

Never has the need for economic development in Montana been more acute than at the current time. Historically, the state has been heavily dependent on its basic industries: mining, oil and gas extraction, agriculture, forest products, and tourism. Downturns in several of these industries contributed to the recession in the early 1980s, while mechanization meant the loss of quality jobs. Even though the state's economy has stabilized and forecasts call for slow growth, Montana is expected to lag behind the nation in recovery.

Low per-capita incomes, generally low levels of business and economic activity, and net out-migration experienced in the 1980s all underscore the need for increased business development in the 1990s. To date, Montana's state government has not entered the competitive arena of tax incentives, below-market business loans, or other relocation incentives to lure businesses to Montana. It is critical, therefore, that Montana support existing and emerging small businesses within the state to close the gap between Montana's growth rate and that of the nation.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 2/14/91
BILL NO. SB242

February 13, 1991

Chairman "J.D." Lynch
Committee on Business and Industry
Montana Senate
State Capitol
Helena, MT 59620

Dear Senator Lynch:

I am writing in support of SB 242 which provides a pool of research and development funding to be administered as loans by the Montana Science and Technology Alliance. This legislation provides support for a number of initiatives designed to support economic development in the state. Fund 3

An initiative with which I am most familiar is the Montana Entrepreneurship Center, an organization designed to make available expertise and information to businesses in the state. The Entrepreneurship Center has the potential to directly impact the state economy by providing business services and technical assistance to business owners/entrepreneurs in addition to identifying entrepreneurial and business development opportunities. In the brief period of its operation, the Montana Entrepreneurship Center has build an automated data base containing information that has been accessed by businesses throughout the state. With three offices located in Missoula, Bozeman, and Billings, the Montana Entrepreneurship Center is organized to provide state-wide assistance.

Since its formal opening last fall, the Center has provided help to a wide spectrum of businesses. The funding provisions contained in SB 242 will make it possible for the Montana Entrepreneurship Center to continue to support the small business sector of the state in ways that will promote growth.

Sincerely,

Andre Corbeau

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 2/14/91
BILL NO. SB242

Testimony of Jon Marchi
As a Proponent with Amendments
Senate Bill 242 - Science and Technology
52nd Legislative Session
State of Montana
Business and Industry Committee
10:00 A.M. February 14, 1991

Mr. Chairman,

Members of the Committee, for the record my name is Jon Marchi. In my testimony today I represent myself and The Montana Private Capital Network as a Director and Officier.

I have been involved with State economic development efforts for the past ten years (five legislative sessions). My background is private sector although I have served and continue to serve on State and local boards. In addition, I serve on several corporate boards throughout Montana. Up until January 1991, I served on the Montana Science and Technology Development Board for the past six years which has been from the inception of the program.

I am testifying in favor of Senate Bill 242 with certain amendments. Having served on the Science and Technology Legislative Committee that drafted this bill, I am familiar with it although certain parts of the bill were later changed.

Please consider the following facts in support of funding an additional $5,100,000 for research and development projects for the Science and Technology Alliance:

Over the past six years Science and Tech has made 31 research and development investments representing total funds disbursed of $2,357,144 with additional funds committed but not disbursed of $318,878 for a total of $2,676,022. This equates to an average research and development investment of $86,323. The largest research and development investment to date ($350,000) was for Western Energy's coal drying process. The smallest was for $5500 for a business incubator project in Butte.

Total cash return on these research and development investments to date has been $3975. or less than 2/10's of 1.0%. The average life is now about three years. On the more positive side, total matching funds from all other non State sources exceed $78,500,000 for a respectable 29 to 1

match ratio. To be fair these match numbers are skewed by two real success stories. The largest research and development investment of $350,000 to Western Energy is now being matched by the Department of Energy with $69,000,000 to build a pilot plant in eastern Montana to de-water and clean up our Montana coal prior to out of state shipment. The second success story is Science and Tech's $50,000 initial investment to help start the Center for Interfacial Engineering in Bozeman which ultimately resulted in a $7,500,000 grant from the National Science Foundation. However, to secure this grant the State must provide matching funds of $1,000,000 of which $600,000 is part of this Senate Bill 242 as presently written.

When you consider this bill it is important that you understand that funding research and development is substantially different than funding seed capital and venture capital investments. In making seed capital loans, the Montana Board of Science and Technology fully anticipates a return of 9% per annum or more plus a return of principal. The Board knows that some of these investments will fail. However, because the debt instrument is convertible to equity the more successful seed capital investments should hopefully more than make up the difference. This cannot be said or implied about research and development investments. Cash return may be low to non existent but other non-cash returns can be very substantial such as a match ratio of 29 to 1; increased employment; increased recognition for the State; and, providing ideas and products that may become in time, good businesses to Montana's benefit.

Kay Lutz-Ritzheimer, Executive Director of the Montana Entrepreneurship Center, is here today to describe a most successful program that has been primarily funded by the Montana Science and Technology Alliance. Although near term cash returns to the Alliance are not anticipated the other returns are already substantial from this Center of Excellence.

Many have called Science and Technology the best economic development program the State has to offer. That may or may not be true. Only time will tell. However, it is incumbent upon me to thank all of you on this committee and all the previous legislators for your support of this program. Two years ago Science and Technology received only three dissenting votes in both houses when the $7,500,000 seed capital fund was established from the In-State Investment Fund portion of the Coal Tax Trust Fund. Approximately, $1,330,750 of that $7,500,000 is invested in four businesses in Montana.

As a previous member of the Science and Technology Board having twenty-five years experience in developing and financing small and medium size businesses in Montana, I respectfully request that you favorably consider the

following amendments to this bill:

Page4, line 7, recommend change to read June 30, 1994 to be consistent with seed capital loans and to provide the board more time to make intelligent and informed decisions regarding research and development investments. It has taken two years to invest $1,330,750 of the $7,500,000 seed capital fund or 18% of the total.

Page 4, line 17, recommend change to $1,000,000 from $600,000. The State must provide a total match of $1,000,000 to secure the $7,500,000 of National Science Foundation funds for the Center for Interfacial Process Engineering over the next few years. Let us provide all that funding in this legislation so that it is not necessary to return to this committee two years from now.

Thank you.

Jon Marchi
7783 Valley View Road
Polson, MT 59860
883-5470

TESTIMONY OF
KAY LUTZ-RITZHEIMER, EXECUTIVE DIRECTOR
MONTANA ENTREPRENEURSHIP CENTER

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 2/14/91
BILL NO. SB 242

Before the Senate Standing Committee
for
Business and Industry
State of Montana

Testimony for Senate Bill 242
February 14, 1991

This testimony is offered in support of Senate Bill 242 which allocates in-state investment funds to be used for research and development projects in the form of loans provided through the Montana Science and Technology Alliance to the Centers of Excellence program and the Montana Entrepreneurship Center.

The Montana Entrepreneurship Center is the cooperative effort of the University of Montana, Montana State University and Eastern Montana College and uses the strengths of all six units of the Montana University System to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship.

With a central office in Missoula and regional offices in Bozeman and Billings, the Center provides business and technical assistance to entrepreneurs, inventors and small-business owners statewide. While every client that accesses the Center receives the assistance required, Center directors at each location identify ventures with the potential to create jobs and impact the economy, and provide intense "hands on" services to these businesses to help insure the probability of their success.

Using a database of public, private and university-sector resources, the Center acts as an information broker, linking clients with information, expertise and facilities needed to make their ventures operational. The Center also promotes networking among entrepreneurs and links clients to sources of funding for start-up, operation, research and development.

In many cases, the Center works closely with the Alliance, directing clients to the seed capital funding program, and with other funding and business incubator programs across Montana. The Center has been welcomed by other public agencies and economic development groups as a key player with the strategic position of gateway to the university system and its resources.

In its second biennium, the Center will sponsor research to identify business and entrepreneurial opportunities and will help sponsor applied research within Montana's universities specific to business issues and product development. Our universities are the seat of research and technological development and must be used to help Montana keep pace with rapidly changing technology.

As new products and technologies are developed within our universities, the Center will help facilitate the transfer of that technology to the private sector by matching research products with the required entrepreneurial skills and capital found in the private sector.

Funding to date:

In 1988, the Montana Science and Technology Alliance provided a $100,000 grant to research, design and establish the Center. In 1989, the Alliance allocated $150,000 in loan funds to provide operating capital for the first biennium. These funds were matched with non-state appropriated funds to include grant funds from the U S WEST Foundation and Atlantic Richfield Corporation.

Clients served to date:

Demand for services has been strong since the Center opened on October 30, 1990. Exhibit A provides a breakdown of clients served for the first three months of operation (November 1, 1990 through January 31, 1991). Directors at the Center's three locations have worked with 131 clients or community groups in scheduled "in-depth" sessions and assisted another 200 clients in "brief" sessions. During this same period, Center staff made over 90 contacts on behalf of clients to connect them with information, resources and expertise in the public, private and university sectors.

The Center has provided assistance to new and developing businesses in all industries with a wide range of management and technology problems. Clients are pleased with the services received, impressed with the outstanding quality of the program, and appreciate the opportunity to access the university system and its vast resources.

The clientele served by the Center is equally impressive. Exhibit B provides client profiles to demonstrate the types of businesses being served by the Center. Immediately following my testimony, our Bozeman Director, Ann Keenan, will discuss two specific cases in greater depth to give you a feeling for the comprehensive nature of services provided at each location.

Senate Bill 242:

Senate Bill 242 is critical to the Center's future and on behalf of the Center's board of governors, I ask this committee to support this important legislation. Section 3, Part (2) of SB 242 designates $3.5 million for loans relating to the Centers of Excellence program and the Montana Entrepreneurship Center. This loan funding is absolutely critical to the Entrepreneurship Center and its continued operation. While the Center will persist with raising funds from private foundations and corporations, most private sources target specific research projects and are reluctant to provide ongoing funds for program operation. Funding provided through this MSTA program is therefore the life blood of the Center's funding base.

Closing comments:

The Montana Entrepreneurship Center wishes to express its appreciation for the support received from the Montana Science and Technology Alliance over the past two and one half years. Without the Alliance, this wonderful and very timely program would not exist. Working together we have developed a very high-quality program, providing an invaluable service to inventors, entrepreneurs and small business owners across the state.

Demand for center services is strong and our success to date has been phenomenal! We are truly developing a model for using one of the state's most valuable resources, its university system, to address business development and economic diversification...a model that is being watched by other states throughout the nation.

We urge this committee to support the Montana Science and Technology Alliance through Senate Bill 242. We have established an outstanding Center of Excellence program with the Montana Entrepreneurship Center. Please help us to continue serving the state's business community.

Thank you.

EXHIBIT A
MONTANA ENTREPRENEURSHIP CENTER

SUMMARY OF CLIENT AND COMMUNITY GROUP SESSIONS
SUMMARY OF NETWORKING CALLS AND MEETINGS

	November 1990	December 1990	January 1991	Total
CLIENT SESSIONS:				
A) "IN-DEPTH" sessions: (Require an average of 3 to 4 hours staff time)				
1) Clients/Client groups	62	19	33	114
2) Community groups	3	4	10	17
TOTAL IN-DEPTH SESSIONS	65	23	43	131
B) "BRIEF" sessions: (Require less than 1 hour staff time)				
1) Requesting information specific to business	27	21	35	83
2) Requesting information about the Center/services	53	30	34	117
TOTAL "BRIEF" SESSIONS	80	51	69	200
TOTAL CLIENT SESSIONS	145	74	112	331
NETWORKING calls/meetings on behalf of clients	38	30	22	90
TOTAL CLIENT-RELATED CONTACTS, SESSIONS AND NETWORK CONTACTS	183	104	134	421

EXHIBIT B
SELECTED CLIENT PROFILES

Case 1 Coffee Row, a new business in Southgate Mall, Missoula, has exceeded all expectations in its first eight months of operation. Its owner would like to expand to more locations in western Montana to include Hamilton and Kalispell. The Center helped this client investigate financing options, evaluate the company's structure, refine a business plan and formulate a marketing strategy.

Case 2 A client group in western Montana is developing new technology for an innovative information system to be used in our national park system. This group would like to keep all research and manufacturing for this project within the state of Montana. The Center linked this client to the Montana Science and Technology Alliance and outlined other options for obtaining research and start-up funds.

Case 3 An inventor requested assistance in patenting a logging system that could significantly impact the timber industry. The Center linked the client with the Innovation Center at Washington State University for expert evaluation of the project and to the U.S. Patent Depository Library at Montana Tech in Butte.

Case 4 In another case, a business owner in Kalispell produces and successfully wholesales a cheese product and wants to expand the business to a full retail operation. This entrepreneur requested assistance with a market feasibility study to evaluate demand and forecast revenues for the new venture. A database search provided the names and backgrounds of sixteen university faculty qualified to provide the market research expertise needed.

Case 5 A Whitefish client requested assistance in locating a marketing consultant with medical sales experience to structure a nationwide distribution strategy for a new physical therapy product. A database search provided the names of several faculty members with the experience required for this project.

Case 6 A community group from the Bitterroot Valley is investigating the feasibility of establishing an industrial park. This group requested assistance in outlining a plan to study the concept. In addition to linking this group with resources to research the project, the Center is helping to arrange an intern from the graduate program in city planning.

Case 7 A group of thirty consultants with expertise in soil and water conservation is forming a new firm to provide consulting services for environmental impact studies. This group requested assistance in developing a marketing strategy, a quality control program and a strategic plan. As is the case with many clients who visit the Center, this group also entered the Center's database as a private sector business that can provide valuable services to other Montana companies.

THE MONTANA ENTREPRENEURSHIP CENTER

Central Office:	University of Montana	(406)243-4009
Regional Office:	Montana State University	(406)994-2024
	Eastern Montana College	(406)657-2813

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5A
DATE 2/14/91
BILL NO. SB242

The Montana Entrepreneurship Center is the cooperative effort of the University of Montana, Montana State University, and Eastern Montana College and is funded by the Montana Science and Technology Alliance. The center uses the strengths of Montana's university system to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship.

The center opened in October to offer services to the business community. Directors in Missoula, Bozeman, and Billings use a comprehensive database of public and university resources to link business owners and entrepreneurs with the information, expertise, and facilities they need to make their ventures operational. Directors identify ventures with potential to create jobs and impact the economy and work closely with these management teams to increase the probability of success.

Future plans for the center include providing business information through conferences, newsletters, and electronic bulletin boards. Serving as the central information source for the state, the center will also access other databases and maintain a calendar of conferences, seminars, and business activities scheduled statewide.

In addition, the center will encourage and promote networking among entrepreneurs by maintaining a statewide computer conferencing system. The conferencing system will link Montana businesses to national and international systems to bring information and expertise to the state in areas where experience is lacking. This will help create the infrastructure necessary to support entrepreneurship and business development.

The center will also sponsor research within Montana's universities and technical schools to develop new products, concepts, and technologies and then transfer that technology to the marketplace by matching research products with the required entrepreneurial skills and capital found in the private sector.

Finally, the center plans to monitor the changing needs of business owners and entrepreneurs and use that information to adjust and develop client services. Faculty and center staff will conduct research to identify entrepreneurial and business opportunities and disseminate the results to the business community.

Private funding is provided by U S WEST Foundation and Atlantic Richfield Corporation.

MONTANA BUSINESS QUARTERLY

Volume 28, number 3 Autumn 1990

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. SB
DATE 2/14/91
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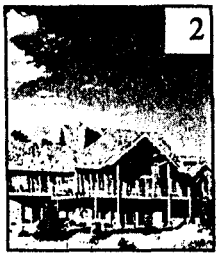
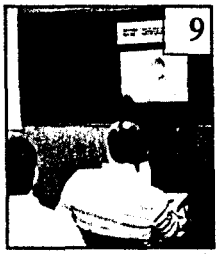


2 **Montana's Log Home Industry**
From rustic cabins in the woods to $500,000 dream homes that sell on international markets, Montana's industry has grown in the last several years.
Charles E. Keegan
Daniel P. Wichman
Paul Larson
Dwane D. Van Hooser



9 **Serving the Montana Business Community via Television**
Students in Billings can now get their MBA through UM's televised courses.
Teresa Beed
Lee Tangedahl
Gerald Evans

13 **Big News for Small Companies**
Ways for small companies to incorporate without big corporation red tape.
Paul Larson

15 **The Montana Entrepreneurship Center**
The center helps Montanans start new businesses.
Kay Lutz-Ritzheimer

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 2/14/91
BILL NO. SB242

Testimony of
Ann P. Keenan, Bozeman Director
Montana Entrepreneurship Center, Montana State University
For Business & Industry

SENATE BILL 242

February 14, 1991

Now that you have the basic information regarding the mission, administration and operation of the Montana Entrepreneurship Center. I will report on two Center clients with the potential to significantly impact Montana's economy.

Both clients have been receiving intense hands-on services from the Bozeman office since its opening in October and require on-going assistance in making their ventures operational.

While confidentiality is a critical issue to the Center and its clients, the following have provided the authorization to report on their operations in support of the high quality services they have received.

The first client, Paul O'Leary from Ohio, contacted the Center requesting market research and demand analysis to determine the feasibility of establishing a micro-brewery in Gallatin county. The Center assisted Mr. O'Leary in identifying marketing professors who would be interested in the project. In addition, the Center provided information on other resources of potential value to his operation, including those provided by the University Technical Assistance Program, SCORE and the MSU Marketing Club. After receiving the Center's information, he made arrangements with the MSU Marketing Club to conduct primary market research which was completed in January.

As a direct result of the research conducted, he and his wife plan to move from Dayton to open a micro-brewery in the Bozeman area by winter 1991.

His operation's initial capacity of 1250 barrels per year is expected to yield a gross income of $190,000. During the first year of operation, the business will employ two full-time employees. Projections indicate the number of employees to double within four years and production to triple by the end of the fifth year. Initial distribution will be limited to the Gallatin valley while planning for eventual statewide distribution.

He is currently selling stock to fund his recently incorporated venture and will apply for a small business loan to finance the remaining balance. The Center is currently forwarding information on state and private loan programs.

The second client, Earl Skogley, Professor of Soil Science at Montana State University, has received funding from the Montana Science and Technology Alliance for conducting research in the development of new methodologies in modernizing soil testing. The commercialization of his new technology, the resin capsule, could result in a multi-million dollar manufacturing operation and distribution center.

Dr. Skogley, as a Center client, has received assistance in patenting his invention, studying its market potential and listing the invention on a worldwide database of licensable technology. Before he can properly develop the commercialization of this new technology, he states "We will need much more support from this Center... [and] I can state that MSTA support has been absolutely critical to our current stage of progress."

These clients are representative of the numerous clients who have expressed sincere appreciation for the services received from the Center. The job creation and economic impact of these ventures demonstrate the value of the Center's services in promoting business development in Montana.

Chairman Bengtson - members of the Committee - Jan Cupples

My Name is Mayor Richard Larson. Billings

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 2/14/91
BILL NO. SB 242

TESTIMONY ON BEHALF OF SB. 242

I stand here today to speak on behalf of SB. 242 and its basic aims in providing funding through the Montana Board of Science and Technology Development for an "in state investment fund for research and development projects."

I have been an active proponent for the use of our vision in developing our future. One of the key areas that have been neglected in Montana for far too long ~~is~~ are the concepts of VALUE ADDED TO OUR RESOURCES. Now most of us have used this term in the adding of value to our agricultural or timber resources. However we have not extended our thought processes in adding value to some of our most important resources, OUR PEOPLE, YOUTH AND EXISTING BUSINESSES.

We certainly have not utilized this thought process in considering the development of our service industries.

I am not talking about 3.85/hr Service Providers

Let me explain. Currently in Billings, we have a Medical Complex that is unparalleled in the Region from Rochester Mn to Seattle North of Denver and Salt Lake City. This is truly a service industry. What can we do to expand this by adding Value. We can visualize the expansion of Medical Related activities ~~of~~ in the product manufacture of goods used in the complex; we can visualize the expansion of Psychiatric, Drug, ~~and~~ Alcohol and Mental Health programs to service an even wider range of clients and bring them to Montana; we can get into the areas of geriatrics where the potential for expansion of these services is unlimited. The spectrum of medical facility research is limitless.

New concepts must be developed

Retirement Homes
Nursing Complexes

We then are adding value to our resources.

We need not apologize for this direction

If we took this same thought and applied it to other service oriented industries, we can add value to our states economy in areas not even tapped. Think ~~for a minute~~ of the potential Millions of Dollars from outside the State of Montana that will then be brought into our State through value added processes in currently unexplored arenas.

With your consideration of funding a Research and Development component to the Montana Science and Technology Development range of services, I believe we are then beginning at this level to visualize the potentials available and not be limited by our current perspectives for the future. Educational medical etc must be considered

I encourage your favorable consideration of SB 242 to establish funding for Research and Development and I advocate specifically ~~to~~ the component of $1 Million for medical facility research development project loans. You see, As Research generally ~~specifically~~ Medical Research is developed, the product of that Research becomes the benefit to our communities throughout the State of Montana. We are truly investing in the future of Montana.

We are espousing our ~~Vision~~ VISION —

Thank You.

We are adding value to our existing assets.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 2/14/91
BILL NO SB242

STATEMENT ON BEHALF OF "RESEARCH AND DEVELOPMENT FUNDING", SB 242

by Jay F. Kirkpatrick, Ph.D., Vice President, Board of Directors, Deaconess Research Institute; Associate Professor of Physiology, Department of Biological Sciences, Eastern Montana College

The need for a first-rate biomedical research institute in Montana can be justified on economic, medical, and educational grounds. The benefits of such an institute include (1) placing Montana in a leadership position to seek answers to the growing problems of rural and gerontological medicine, both of which are demographic realities in our state, (2) providing an attraction for research scientists throughout the U.S. who, if given the opportunity, would pursue their professions in the quality environment of the state, (3) providing jobs for our college graduates in technology and science, (4) bringing substantial federal and private foundation grant monies to the state, and (5) providing the scientific and technical research base which attracts clean industry. While the placement of the Super Collider by DOE and the ultimate location of U.S. West's new research facility was ultimately decided on political grounds, their respective evaluations of Montana during the search process were enlightening, if not encouraging. In short, the state was unable to provide the scientific research support system that facilities and industries of their nature required. Neither the University System nor private facilities could deliver the needed research support. The impressive clean industry and tecnhology which has grown up around the Boston Beltway and the Silicone Valley had far less to do with tax climates than with the scientific support provided by the MITs, the Harvards, the Stanfords and the Cal Techs.

My colleagues here today have eloquently addressed these reasons for supporting a first-rate biomedical research institute. I wish to focus on the educational dimension of a research institute. The United States is currently facing a crisis with regard to the education of scientists. Studies by the National Academy of Science(NAS), the National Research Council (NRC), the National Science Foundation (NSF), the American Association for the Advancement of Science (AAAS), and the American Council on Education (ACE) have all indicated that the U.S. is rapidly becoming one of the most scientifically illiterate countries in the world. The

predictions about the effects of this trend, upon the national economy and defense are dire and supported by recent events.

While much of the problem can be attributed to problems of pre-college education, post-secondary education must shoulder its fair-share of the blame. We are simply not producing adequate numbers of high quality scientists in our colleges and universities. In an attempt to find the causes and seek solutions to this frightening course of events, the NAS and the NSF commissioned a number of studies. One of the results was extremely illuminating. It was discovered that fully one-third of all American students earning the Ph.D. in a scientific (mathematics included) field, first earned their bachelors degrees in a mere 50 undergraduate schools (out of over 2,500 colleges and universities and none of which were in Montana). This report (now known as the Oberlin Report) sought reasons for the success in these small private liberal arts colleges. The two characteristics which set them apart from the less successful schools were (1) their faculty were all heavily involved in research, and (2) their ***undergraduate*** students were all heavily involved in this research. In short, exposure to and involvement in research, at the undergraduate level was seen as the major factor in success.

In response to this, the NSF has redirected virtually all of its undergraduate science education programs to bringing undergraduate students in the sciences into direct contact with research efforts. These programs include (1) Research in Undergraduate Institutions (RUI), in which the primary objectives are to "...strengthen the research environment in academic departments that are oriented primarily toward undergraduate education, ***and promote the integration of research and education at predominantly undergraduate institutions,*** " (2) Research Experience for Undergraduates (REU), which states, "There is wide-spread agreement that active research experience is one of the most effective techniques for training undergraduates for careers in mathematics, science and engineering, ***and that too few such experiences are now available,***" and (3) Instrumentation and Laboratory Improvement (ILI), in which the very first selection criterion is ***"...the proposer's recent science , mathematics, or engineering research performance."*** Finally, a recent editorial in Science (Vol. 251:249, 1991) entitled Teaching and Research, states that "***Those who say we can separate teaching and research simply do not understand the system...***".

The Montana University System cannot deliver the research experiences required to produce competent scientists and the current economic plight of the state and the attitude of the legislature toward higher education preclude rectifying this situation. At Eastern Montana College, the various science departments cannot even qualify for most of the NSF grants because of the inability to demonstrate "institutional commitment" through adequate budgets for the sciences, and the same is true for Rocky Mountain College. Thus there is little liklihood of providing the research setting for good undergraduate education in the sciences. Research institutes of the type we are testifying on behalf of today, provide alternate opportunities for exposing undergraduates to research. Indeed, Deaconess Research Institute already involves a substantial number of undergraduates and medical students in the ongoing research. The nuture and growth of independent research institutes, such as DRI, can provide a vital education component to the state's ability to produce competitive scientists.

Testimony Offered in Support of
Senate Bill No. 242
February 14, 1991

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 2/14/91
BILL NO. SB 242

Richard C. Potter, Ph.D.
Vice-President, Research & Development
Basic Bio Systems, Inc.
2837 Fort Missoula Road
Missoula, Montana 59801
Telephone: 728-0260

I appreciate the opportunity to appear before you today and offer remarks in support of Senate Bill 242.

First, I would like to mention that I serve on the Board of Governors for the Center of Excellence in Biotechnology and, second, my company has received seed funding from MSTA. Accordingly, I am not without bias. Further, since my profession is research and development, I have a natural tendency to support things which advance the cause of R&D.

Having said that, I would like to describe to you, as objectively as I can, what it is like for a small research company to do business in Montana. To give you a quick perspective, I would point out that Basic Bio Systems began life in California. It evolved to a split operation, with a business office in California and a laboratory in Montana. More recently, the company has consolidated entirely into Montana.

There are a number of factors which account for this migration. These include:

1) MSTA: The Sci-Tech Alliance has provided us with badly needed capital. The single downside to doing business in Montana is that we are outside the mainstream of venture financing — MSTA offsets this disadvantage by allowing a company such as ours to buy the time required to access conventional financing sources. Moreover, they have opened many doors and made many useful introductions on our behalf. I should also mention that MSTA has representation on our board of directors and I can, without reservation, assert that they have consistently been among the most positive forces on our board.

2) Biotech Center of Excellence: The Center has arranged ready access to University facilities for our staff. This includes scientific equipment which is simply beyond the means of most small companies — and yet which is vital to the conduct of successful research. Since we are located in Missoula, much of this has involved the University of Montana. However, the Center has also facilitated access to Montana Tech and MSU.

Both of these institutions, MSTA and the Center of Excellence, are largely creatures of this legislature. Speaking for Basic Bio Systems, I would like to say that we are very grateful for what the legislature has done. These institutions genuinely work and are invaluable to a small company such as ours. Indeed, with their help, we hope to ultimately become a large company. I believe that your foresight in establishing them will reap substantial rewards for the economy and stature of Montana.

There are other reasons why our company is in Montana, including the oft-recited ones of quality of workforce and quality of life. Of particular importance to us is that the cost of doing research here is much lower than the norm.

All of these positive considerations can be attractive to other companies — provided there is an effective means of delivering the message. As an illustration, the past president of our company is now heading up another biotech company in California — and this company is actively exploring the establishment of research facilities in Montana. Given success, they also contemplate a warehousing and distribution center here. In this case, the Montana message has been delivered serendipitously. There are elements of SB 242 which, by strengthening MSTA and the Centers of Excellence, will reduce the reliance on serendipity and significantly enhance our ability to deliver the message.

Richard C. Potter

CENTER FOR
INTERFACIAL
MICROBIAL
PROCESS
ENGINEERING

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE 2/14/91
BILL NO. SB 242

THE CASE FOR STATE SUPPORT FOR THE

ENGINEERING RESEARCH CENTER

1. In April, 1990, the National Science Foundation awarded Montana State University a grant of $7.4 million, payable over five years, to create the national Engineering Research Center for Interfacial Microbial Process Engineering. The National Science Foundation made this award in part dependent upon a commitment made by Governor Stephens in June, 1989 of State support in the amount of $1 million to the Center over this same five year period. The award creating the Center is the largest such award ever received by the Montana University System.

2. Other support for the Center comes from Industrial Associates of the Center, and amounts to an anticipated $3 million + over the period. Additional support from other sources should exceed another $3 million over the period.

3. The Center presently supports the education and training of over twenty students, and employs over twenty-five faculty and staff.

4. The Center has an international reputation in its specialty, and has brought about a close collaboration with the Idaho National Engineering Laboratory, which is bringing additional support into the state.

5. The technologies being developed at the Center have direct applicability to Montana problems and opportunities, including bioremediation of contaminated soils, and bioleaching of metallic ores.

6. The Center's direct contribution to the state's economy over the period of the award shall amount to well over $14 million, not even counting a multiplier! This is dependent upon the State of Montana's honoring its $1 million commitment. This fourteen-to-one leveraging of state money is significant to the State of Montana in general, and higher education in the state in particular.

2/91

A National Science Foundation
Engineering Research Center
in partnership with the
Idaho National Engineering
Laboratory

Montana State University
College of Engineering
409 Cobleigh Hall
Bozeman, Montana
59717-0398

Telephone: 406-994-4770
FAX: 406-994-6098
BITNET: UIPERC@MTSUNIX1
INTERNET: uiperc@terra.oscs.montana.edu

Deaconess Research Institute, Inc.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11
DATE 2/14/91
BILL NO. SB 242

need to Senate committee

Our Chairman, Mentor of the Committee

Support S.B.-242

February 11, 1991

Dear : Senators

As you know, Billings has achieved some eminence in the state as a medical center; we are at a key point to be able to expand the services offered to the patients of the State of Montana by developing and enhancing a research project for our state.

To meet this goal will require active support and participation from the legislature. We have in place an active research program that is ready to be expanded and wants only commitment, both personal and financial, from our state. The benefits to our state are immense. The most obvious to all of us is the additional 100 jobs we will create as we expand our Institute. These 100 jobs will be in the highly technical and scientific area, again improving the reputation of Montana nationally by virtue of quality research, and making it clear to other technologically oriented companies and industries that we have the ability to support these endeavors.

There are many positive spin-offs from research activities that impact directly upon patient care and directly upon continuing education for our physician community.

I am in hopes you will support us strongly as we continue our development efforts.

Sincerely,

Robert K. Snider, M.D.
Chairman of the Board and Medical Director,
Deaconess Research Institute

Deaconess Care Corporation

2520 17th Street West
Suite B-3
Billings, Montana 59102

Telephone 406-255-8470

John M. Jurist, Ph.D./Scientific Director
Robert K. Snider, M.D./Medical Director

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11A
DATE 2/14/91
BILL NO. SB 247

Deaconess Research Institute For Geriatric Studies

Accomplishments To Date

Basic Research Projects

- Bone Dynamic Characteristics

Clinical Research Projects

- Osteoporosis
- Stress Thermography
- Low Back Pain
- Fracture Healing
- Artificial Intelligence in Medical Diagnosis

Community Education and Outreach

- Billings Regional Science Fair – 2
- Student Training - RMC + EMC
- Professional Resource to Academic and Medical Community

Community Impact of existing program is:

- Seven Employees
- Annual Budget: $280,000

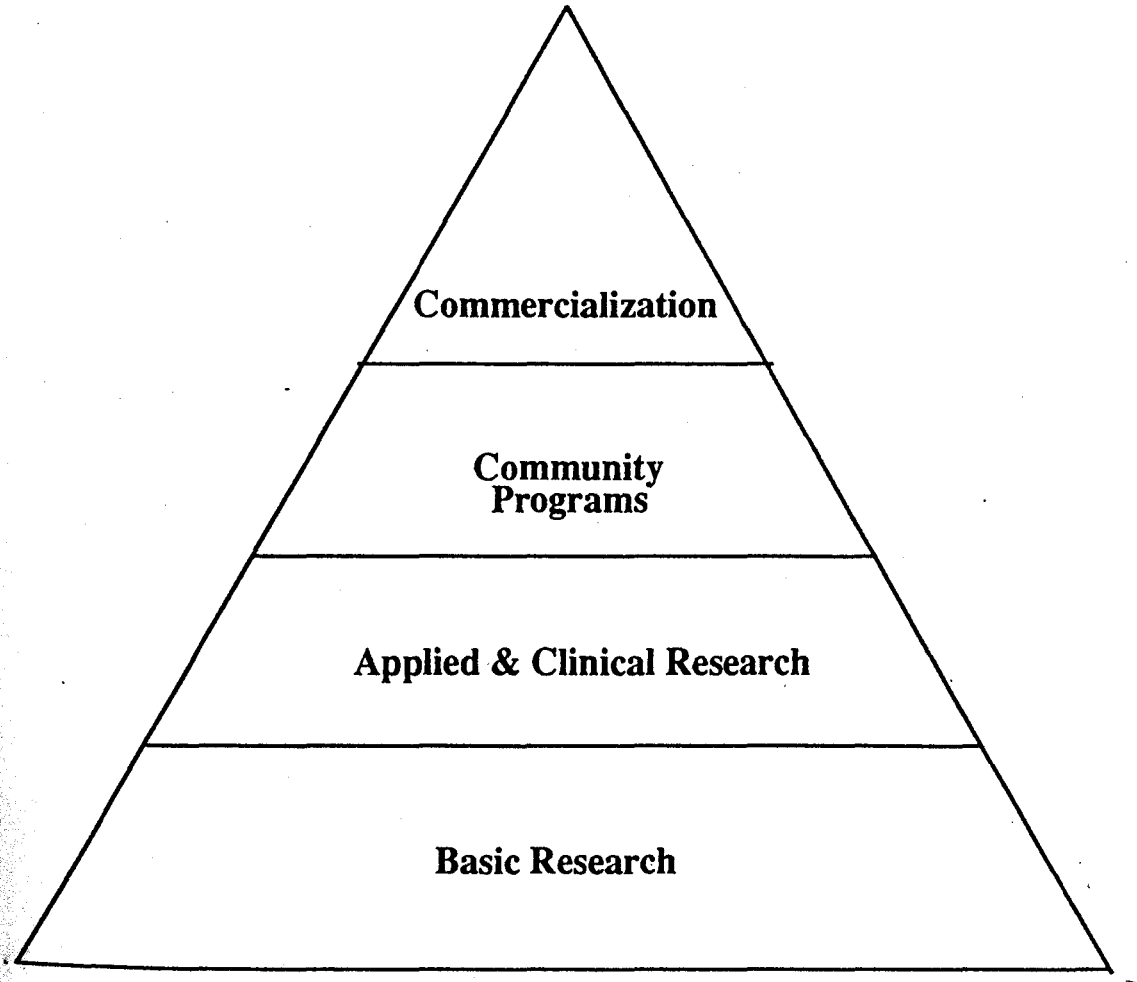
Board decision one month ago - build a world class bio medical research center in Billings, Montana

Mission Statement

- **Conduct World Class Biomedical Research into Health Conditions Related to the Human Aging Process**

- **Have Substantive Impact on the Scientific and Economic Development of the Billings Area and the State of Montana**

Proposed Research Structure



Personnel

Research Scientists	**10 - 12**
• **Basic** research	**4 - 6**
• **Applied/Clinical** research	**4 - 6**
Technicians & Support Staff	**70 - 80**
Administrative Staff	**15**
Total	**95 - 100** new

high skilled, high pay jobs

Development Costs

- **$750,000 - $1,000,000 Per Year for 5 Years**
- **Expected to be Generated From Combination of Federal, State, Local and Private Sources**

What are the

Community Impacts

of this new program?

Annual Budget

- $10 Million Per Year
- 85 - 90 % from Grant Support
- 10 - 15 % from Other Sources

Economic Benefits

high paying, high skilled

- 100 New Jobs

- $10 Million Per Year in Outside Funding

will • Stimulate Biotechnology and Biomedical Business Development in Billings Area with Commercial spin offs.

should • Enhance Image and Reputation of Billings Medical Community

1. In addition, I believe this bill will strengthen the Entrepreneurial center located at EMC.
2. I support the matching of funds on a 1 to 1 basis as called for in the bill. of these funds
3. I also support the repayment by recipients. the state will get a payback for its investment in this bill.
4. I strongly urge your support of this bill as an economic development bill for the state of Montana.

thank you

MONTANA TECH

Butte, Montana 59701
(406) 496-4101

ADVANCED MINERALS AND HAZARDOUS WASTE PROCESSING
CENTER OF EXCELLENCE

February 12, 1991

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 12
DATE 2/14/91
BILL NO. SB242

Chairman "J.D." Lynch
Committee on Business and Industry
Montana Senate
State Capitol
Helena, MT 59620

RE: Support of SB 242, Funding for R&D

Dear Senator Lynch:

I would like to provide testimony in support of SB 242, Funding for R&D in Montana. As the newly elected director of the Center of Excellence for Advanced Minerals and Hazardous Waste Processing, I have been impressed with the research conducted under Montana Science and Technology Alliance (MSTA) funding. Our Center, established in 1989, has funded six research projects, at a direct cost to MSTA of $58,000, with matching funds of $190,000. In addition to these Center-funded projects, four additional projects have been pursued and won through the Center with the expenditure of no additional MSTA research funds. The total value of these additional research projects is in excess of $300,000. MSTA dollars committed, including those for establishment and administration of the Center, total $178,000 with outside funds totaling $578,000 for that same period of time. None of these projects have yet generated revenue to repay MSTA loans, but comparison of funds expended vs matching funds certainly would indicate reasonable willingness on the part of outside sources to support Montana-based research. I personally am very enthusiastic about the results of several of these programs, and feel revenue will be generated in the future. A summary of the funding of Center-sponsored research is attached as Table 1.

As a recent fugitive from industry, I strongly support the provision of the bill which requires review of the University System's intellectual property management. An aggressive approach to management of proprietary and patentable resources is absolutely essential to a profitable Montana technological industry. I don't know how many times I have had employees tell me "This idea can't be patentable," and then, after encouragement, to have them pursue and obtain a patent on the idea for them and their company. Successful exploitation of intellectual property takes a different mindset, (and bright, and well-paid patent attorneys) but is worth it in the long haul. In today's competitive environment, intellectual property can provide an income stream and trading stock during negotiations.

TABLE 1

SUMMARY OF ADVANCE MINERALS AND HAZARDOUS WASTE PROCESSING CENTER OF EXCELLENCE RESEARCH AND DEVELOPMENT PROJECTS

PROJECT	MSTA Funds	Outside Funds
Biosorption of Metallic Ions from Dilute Mineral Waste Water Using Filamentous Fungi	9,200	33,000
The Concentrate Tub, a New Concept in Gravity Concentration	6,750	6,750
Evaluating Techniques for Treating Water from an Abandoned Open-Pit Mine (The Berkeley Pit)	10,000	83,000
A Study of Biohydrometallurgy Methods Using Arsenopyrite Ore	9,105	0
Detoxification of Acid Mine Drainage from the Berkeley Pit Using Chelation Affinity Chromatography	12,900	22,400
Establishing the Montana Technology Innovation Center	10,000	50,000
Pilot Plant Testing of a New Technology for Recovery of Metal Values and Toxins from Mine Wastes (Air Sparged Hydrocyclone)	0	150,000
Metal Value Recovery from Electromachining Sludge Waste and Chromium Contaminated Soils	0	110,000
Removal of Arsenic from Waste Solutions and Copper Smelter Solid Wastes	0	86,000
Establishing the Northern Rockies Environmental and Waste Technology Educational Partnership (NEWTEP)	0	37,400
TOTAL	**57,955**	**578,550**

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 13
DATE 2/14/91
BILL NO. SB 242

Testimony on Montana SB 242 to Senate Committee on Business and Industry, February 14, 1991

By Edward A. Dratz, Professor of Chemistry
108 Gaines Hall
Montana State University
Telephone 994-4041

Members of the Senate Committee on Business and Industry, Chairman Lynch, Ladies and Gentleman:

My name is Edward Dratz, I am a Professor of Chemistry at Montana State University, a Board Member of the Montana Center for Excellence in Biotechnology and a principal investigator on one of the National Science Foundation EPSCoR projects.

I am heavily involved in research and teaching in biotechnology. My students and collaborating faculty are hard at work **developing new methods to discover drugs and pharmaceuticals that are more specific, more effective and less expensive than the present generation of compounds.** I have been at Montana State for four years and was previously on the faculty of the University of California Santa Cruz for 18 years.

I would like to tell you a little about my experiences in the biotechnology research arena in Montana. I would like to tell you why support of scientific research is good business for Montana and why support of scientific research could be even better business in the future. I would also like to tell you why **Montana urgently needs matching funds for the NSF EPSCoR program** which is one of the components of SB 242 under consideration today.

Chemistry is called the "Central Science" by many and provides methods and analyses for most other areas of science including biotechnology. Modern chemistry requires an infrastructure of powerful and sophisticated analytical instruments that are expensive and that are constantly being improved and upgraded. When I was considering taking a job at MSU I was concerned that the chemical instrumentation was outdated and inadequate. However, I was impressed by the general good quality of the faculty and their willingness to help work on remedying the weakness in the instrumentation.

During the first two years at MSU I was the author, principal investigator or major contributor to a number of **Federal and private foundation grants which provided major chemistry research equipment with a value of about $2.5 million dollars. At most $150,000 of this was state match which is a ratio of over 16 out-of-state dollars for each in-state dollar.** Pretty good business by any calculation. This equipment also put MSU at the forefront of institutions in the northwest in analytical instrument capability.

Between June 1986 and June 1990 I have also brought in research grants totaling $905,000 direct costs plus about $300,000 in indirect costs for a total of about 1,205,000. This is all new money in Montana and comes from the Federal government, pharmaceutical companies and private foundations from outside of Montana. **Most of these funds are spent to create research jobs and are paid in salaries to people who live, work and pay taxes in Montana.** I am told that there is an economic multiplier effect when new money comes into a community it creates a cyclic wave of beneficial economic activity which generates additional jobs.

The availability of the modern instrumentation and increased research activity has helped to attract additional outstanding scientists to MSU with active research programs and has stimulated scientists who were already present in new, productive directions.

For example, Professor Al Jesaitis was attracted to MSU from Scripts Clinic and Research Foundation in California in early 1989, largely because of possible collaboration with my research group. Montana has not paid Prof. Jesaitis as he has a so called "soft money" appointment and has generated his salary and that of this research group from Federal and foundation research grants. MSU did provide laboratory set up and remodeling funds but these were much more than recovered from indirect costs that he generates.

Prof. Jesaitis has brought in research grant funds totalling about $470,000 in the two years he has been at MSU plus about $160,000 in indirect costs for a total of $630,000 in two years. Again these amounts are new money in Montana and are largely paid out in salaries for research workers who live in Montana and pay taxes in Montana.

If you add the funds Prof. Jesaitis has brought in to the research funds I have brought this totals $1,805,000. If you divide this by the salary that Montana paid to me over the same period ($173,000) you get a ratio of over ten out-of-state dollars for each in-state dollar without considering any economic multiplier effect.

This is an scenario which is quite typical for competitive researchers and can be repeated time and time again with some seed money and encouragement from Montana. Each successful research group tends to stimulate other research groups and to spin off young investigators who become self supporting. For example, a young man who came to Montana with me, Erik van Kuijk who is an MD and PhD has recently become a research assistant

professor at MSU and has obtained his own federal research grant for $250,000 direct costs plus about $75,000 in indirect costs for a total of $325,000. A young colleague who came to Montana with Professor Jesaitis, Mark Quinn who is a PhD, recently obtained his own research grant for about $140,000 direct costs and $56,000 in indirect costs for a total of $196,000. And so the multiplication of support goes. Again, this is all new money in Montana and will largely be spent in salaries.

About two years after I came to Montana I had what seemed to be a good idea for a new research approach in an area where I had not worked before. I will tell you how I have been able to leverage rather modest seed support from Montana into very substantial new research support. In addition, this research idea stands a very good chance of leading to the establishment of a new biotechnology company in Montana in the next two years.

In order to generate any significant amount of financial support for research you need to have some initial results, especially if you do not have a track record in a research area or if the proposed work seems risky. **The newly formed Montana Center for Excellence in Biotechnology** provided a $20,000 seed money grant to help me pay personnel to generate initial research results. I was able to team with another MSU researcher, Dr. Jean Starkey in microbiology to obtain a $75,000 grant from the Tobacco Research Council (TRC) for a project to try my new technology on developing a new anticancer drug.

With $6,000 from MCEBT and $20,000 from the TRC we were able to purchase a core biotechnology instrument called a peptide synthesizer which was an essential component needed for the new research approach. This still is the only peptide synthesizer in Montana and has provided state-of-the-art research material for about six research groups to date.

The data we were able to generate supported two years of funding from NSF EPSCoR II for $250,000 for a group including Prof. Starkey, three other principal investigators and myself. EPSCoR is very enthusiastic about our research and found that it got uniformly excellent reviews nationally. Our new research approach promises to provide a new, rapid method to develop a wide range of highly specific new drugs with greatly improved effectiveness and low side effects.

Our group was joined by Prof. Callis in the Chemistry Department and was able to obtain an NIH Biomedical Equipment grant for $152,000 to upgrade our peptide sythesizer to a higher throughput automated model ($35,000) and to provide $117,000 for state-of-the-art minisuper computers and molecular graphics software that was essential for our research.

We need a couple of more years of seed funding before we will be able to greatly leverage our initial results. EPSCoR is established to provide seed money to stimulate just this kind of new research thrust but will support this only if Montana shows more evidence of interest in stimulating research. I believe that EPSCoR will provide three more years of funding of about $500,000 direct+indirect to help us establish this new method, but only if Montana provides the matching funds for scientific infrastructure development that have been requested as part of SB 242.

If we can get our new technology firmly established it should provide a great deal of research support and economic development. Prof. Starkey has just submitted a grant proposal to the National Institutes of Health (NIH) for $300,000 direct plus $120,000 indirect totalling $420,000 to support the work aimed at new anticancer drugs. I am about to submit a grant proposal to NIH for $840,000 direct + indirect to support my lab's efforts to develop the methods. Prof. Jesaitis plans to submit a grant proposal for a similar amount to support this approach applied to developing new anti-arthritis and anti-emphysema drugs.

Prof. Cory has submitted a grant proposal to Proctor and Gamble for $100,000 to support our approach to developing a new drug against AIDS virus. Prof. Cory plans to submit similar grant proposals to NIH. We plan to submit a $300,000 grant to Burroughs Wellcome for support of development of the approach. It may take 1-2 years to get these proposals funded if all goes well. We urgently need continuing seed support from NSF EPSCoR to keep our momentum up as the research and other support matures.

There is a strong likelihood that our new technology will lead to the establishment of an innovative new biotechnology company in Montana. All this is rather impressive leverage for $26,000 seed support provided by the Montana Center for Excellence in Biotechnology (MSTA). All of the seeds planted in scientific research cannot be expected to come up as strongly and vigorously as the one I have described. However, investment in scientific research in Montana and most particularly, **investment in NSF EPSCor matching by Montana is certain to pay off handsomely.**

I hope I have been clear. If you would like any additional information, I have included my telephone number and mailing address on the transcript of my remarks that I have given you. Thank you for your attention.

WITNESS STATEMENT

NAME: Edward Dratz DATE: 2/14/91

ADDRESS: Dept. of Chemistry

PHONE: 994-4041

REPRESENTING WHOM? Montana State University

APPEARING ON WHICH PROPOSAL: SB 242

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Prepared Statement ~~enclosed~~ attached.

Matching funds for NSF EPSCOR is crucial for development of scientific research base and for economic development in the a knowledge-based economy of the future in Montana. The statement I attach contains some data in support of my position

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE _____

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
JON MARCHI	SELF, MT. PRIVATE CAP. NET.	242	✓	
Tom Keegan	BOZEMAN DIR., MONTANA ENTREPRENEURSHIP CENTER	242	✓	
Lujie Swenson	Gallatin Dev. Corp.	242	✓	
George Carlson	McLaughlin Res.	242	✓	
Kathy Lutz-Litzheimer	MT. ENTREPRENEURSHIP COR	242	✓	
Leonard Peterson	MT Rural Water	SB 271	✓	
Chuck Brooke	Commerce Dept	SB 242	✓	
Chris Hallen	Butte-Silver Bow BDC	SB 242	✓	
Samuel Hubbard	Montana West Economic	SB 242	✓	
Jay F. Kirkpatrick	Deseret Res. Institute	SB 242	✓	
Joe Swenson	Deseret Reserch Institute	SB 242	✓	
David L Toppen	OCHE	242	✓	
Edward Dratz	Montana State Univ.	242	✓	
Carl Russell	Sci & Tech Alliance	242	✓	
Sam Mocerito	Center of Excellence Hazardous & Mineral Prom	242		
P.A. Thatcher	Engineering Research center MSU	242	✓	
Tanya Walther	EPSCOR - Dept of Math MSU	242	✓	
Carl Windsor	Deseret Research Institute	242		
Dick Larsen	Mayor City of Billings	242	–	
Buck Boles	MT CHAMBER	242	✓	
Laurie Shadoan	Bozeman Chamber	242	✓	
Kay Foster	Billings Chamber	242	✓	
Steve Huntington	Montana Technology Commerce	242	✓	
Jim Smitham	MONTANA POWER COMPANY	242	✓	
DAN WALKER	US WEST COMM	242	✓	
DAVE BROWN	HD #72	242	✓	

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
DAVE FISHER	MT TECH CITIZEN Supp Comm	242	✓	

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on February 19, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 361

Presentation and Opening Statement by Sponsor:

Senator Gene Thayer, sponsor of the bill, stated that this bill clarifies portions of existing law to include and make it specifically clear that airport authorities are included in the immunity portions of the statutes. There has been some confusion on that, and it has lead to a nuisance. The people involved in this industry would rather not be apt to contend with because the airport authorities do manage the airports that are normally owned by the cities or the counties. He asked that the committee be in favor of deleting some language on the bill starting on line sixteen of page nine to line twenty four stopping at section period.

Proponents' Testimony:

Joe Attwood, airport director of Great Falls international airport authority, stated that this legislation was suggested by

None

Recommendation and Vote:

The motion to table SB 118 passed unanimously.

EXECUTIVE ACTION ON SENATE BILL 242

Motion:

Senator Thayer moved to pass the amendments for SB 242. (See attached copy).
Senator Thayer moved to do pass SB 242 as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The motion to pass the amendments for SB 242 passed unanimously.

Recommendation and Vote:

The motion to do pass SB 242 as amended passed unanimously.

EXECUTIVE ACTION ON SENATE BILL 366

Motion:

Senator Thayer moved to amend SB 366 (See attached amendments).
Senator Noble moved that SB 366 do pass as amended.

Discussion:

Tanya Ask stated that she had called the actuary at Blue Cross and Blue Shield for a figure of how much it would cost per person for the cost of mandatory mammogram coverage, it came to approximately $10.20/year.
Senator Noble stated that he thinks that there should be a dollar limit to this bill. He stated that there should maybe be a limit of fifty dollars.
Senator Lynch stated if you set a dollar limit on a bill, you will see that bill every session to change that dollar limit, simply because of inflation.
Senator Thayer stated that if we have to keep bringing those bills back that deal with mental and health it is worth it.

Amendments, Discussions, and Votes:

The amendments for SB 366 passed 7 to 2 votes.

Amendments to Senate Bill No. 242
First Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
February 19, 1991

1. Title, line 14.
Strike: "AND"
Following: "90-3-301,"
Insert: "AND 90-3-524,"

2. Page 4, line 7.
Strike: "June 30, 1993,"

3. Page 12, line 7.
Following: line 6
Insert: "**Section 7.** Section 90-3-524, MCA, is amended to read:

"90-3-524. Research and development project loan agreement -- specific requirements -- payback. In addition to the loan agreement provisions described in 90-3-522, a research and development project loan agreement must be structured as contracted debt with the following terms:

(1) The agreement must include provisions calling for a payback of at least two times the original loan amount paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the board's financing. This percentage rate may not exceed 5%.

(2) The payback on a research and development project loan for a technology transfer and assistance project may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects.""
Renumber: subsequent sections

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/19/91 Bill No. SB242 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Thayer
Motion: TO AMEND

1987

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 14, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Bob Williams (D)

Members Excused: Gene Thayer (R)

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 853

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that HB 853 is a bill that would allow the election of trade port commissioners. It's an elect or appoint bill. The intent

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that HB 853 is a bill that would allow the election of trade port commissioners. It's an elect or appoint bill. The intention of this bill is to allow the port authorities, that are formally trade port authorities, the ability to elect or appoint their commissioner. In the case of the county wide trade port, you have the entire county is levying two mills. They should have this option to elect or appoint who should be levying those mills.

Proponents' Testimony:

Gordon Morris, representing the Montana associat counties (MACO), proposed some amendments to the bill (See Exhibit 1).

Opponents' Testimony:

None

Questions From Committee Members:

Senator Williams asked if these amendments were proposed in the house.

Tanya Ask stated that there was a great deal of confusion at the house hearing. It was originally scheduled for eight o'clock, then the hearing was at seven o'clock. With the crunch at transmittal, it was decided to wait, and amend it at the senate.

Senator Franklin asked about the amendment four that Tanya Ask proposed by stating that despite the fact that you may come into the preexisting condition that coverage would denied through here.

Tanya Ask replied that is correct.

Senator Lynch asked if Dave Barnhill agreed with the amendments proposed by Steve Browning.

Dave Barnhill replied that one the amendment that relates to underwriting solely on the basis of the driving record they support. With respect to the other amendment which allows premium increases twice a year, this may be due to the fact that this is a particular practice of state farm.

Closing by Sponsor:

Representative Fagg closed by saying that this is a compromise bill. He asked that the committee not put in the gender amendments proposed by blue cross blue shield. It is a whole new issue, and it totally blows the compromise of this bill.There should be another bill drafted for this issue. He has no problem with the second amendment (See Exhibit 7). Senator Rye will carry the bill to the floor.

EXECUTIVE ACTION ON SENATE BILL 242

Motion:

Senator Noble moved to amend SB 242.
Senator Gage moved SB 242 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The motion to amend SB 242 passed unanimously.

Recommendation and Vote:

The motion that SB 242 be concurred in as amended passed unanimously.

ADJOURNMENT

Adjournment At: 11:40 a.m.

J.D. LYNCH, Chairman

DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/14/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER		X	
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 242 (second reading copy -- yellow), respectfully report that Senate Bill No. 242 be amended and as so amended do pass:

1. Title, line 15.
Following: "17-6-308,"
Insert: "17-6-310,"
Following: "90-3-301,"
Strike: "AND"

2. Title, line 16.
Following: line 15
Insert: "90-3-305,"
Following: "90-3-524,"
Insert: "AND 90-3-525,"

3. Page 4, line 20.
Following: "engineering"
Insert: ", provided the loan contains the repayment requirements set forth in 90-3-522 and 90-3-524"

4. Page 5, line 7.
Following: line 6
Insert: "**Section 4.** Section 17-6-310, MCA, is amended to read:
"**17-6-310. No direct loans.** (1) The state may not use this revenue to make direct loans.
(2) ~~No money from the~~ The Montana in-state investment fund may not be used by the board of investments to make direct loans to individual borrowers. The purchase of debentures issued by a capital company and loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans.""
Renumber: subsequent sections

5. Page 12, line 8.
Following: line 7
Insert: "**Section 8.** Section 90-3-305, MCA, is amended to read:
"**90-3-305. Science and technology development account.** (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.
(2) There must be paid into the science and technology development account:
(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana in-state investment fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.""
Renumber: subsequent sections

6. Page 13, line 2.
Following: line 1
Insert: "**Section 10.** Section 90-3-525, MCA, is amended to read:

"**90-3-525. Deposit of payback -- seed capital and research and development project loans.** (1) The payback of principal and earnings on a seed capital project loan executed under this chapter or on a research and development project loan from the Montana in-state investment fund must be administered pursuant to section 17-6-306.

(2) The payback of principal and earnings on a research and development project loan from a source other than the Montana in-state investment fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(3) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use by the board. The paybacks include all those received after January 1, 1989.""
Renumber: subsequent sections

7. Page 13, line 19.
Following: "["
Strike: remainder of line 19

8. Page 13, line 20.
Following: "act"
Strike: ", amending 17-6-308(4)"

9. Page 13, line 21.
Strike: "a"
Strike: "change"
Insert: "changes"

Signed: _____
John "J.D." Lynch, Chairman

LB 3/14/91
Amd. Coord.

SB 3/14 1:05
Sec. of Senate

SENATE BILL NO. 242

INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

THAYER, WILLIAMS

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES; CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, ~~AND~~ 90-3-301, ~~AND~~ 90-3-305, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1818, MCA, is amended to read:

"**2-15-1818. Montana board of science and technology development -- allocation -- composition -- quasi-judicial powers.** (1) There is a Montana board of science and technology development. The board is allocated to the department of commerce. The department shall select,

prescribe the duties for, and supervise staff to administer board activities.

(2) The board consists of nine members appointed by the governor as prescribed in 2-15-124.

(3) In making appointments to the board, the governor shall consider people with extensive interest and experience in science and technology and the application of such interest and experience to economic development in Montana.

(4) The membership of the board must include:

(a) at least ~~two~~ three members with knowledge of early stage financing of private businesses;

(b) at least one member with expertise in applied technology development; and

(c) at least five members from the private sector.

(5) The board is designated a quasi-judicial board for purposes of 2-15-124."

Section 2. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsection (4), the Montana in-state investment fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee, in lieu of the actual acquisition of ~~such~~ the loans or bonds.

(2) The board may use the in-state investment fund to

guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16, or Title 90, chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule establish the maximum ratio between guaranty funds available and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain ~~such~~ the ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed ~~$3,000,000~~ $3 million with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein. The board may agree in connection with the issuance of bonds or notes secured by such account or fund to make such loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1529, subject to the prior pledge of

the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer $7.5 million of the in-state investment fund for seed capital project loans and $5.1 million of the in-state investment fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994, for seed capital project loans and ~~June 30, 1993,~~ for research and development project loans. Until ~~such time as~~ the Montana board of science and technology development makes a loan pursuant to ~~those~~ the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201."

NEW SECTION. **Section 3.** **Allocation of funds.** ~~"~~The PROVIDED THE LOANS CONTAIN THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522 AND 90-3-524, THE $5.1 million of the in-state investment fund to be used for research and development project loans is allocated as follows:

(1) $600,000 to meet state matching fund requirements for the national science foundation awards to the center for interfacial microbial process engineering~~, PROVIDED THE LOAN CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522 AND 90-3-524~~;

(2) $3.5 million for loans relating to but not limited

to the centers of excellence program and the Montana entrepreneurial center and to meet state matching fund requirements for the national science foundation's experimental program to stimulate competitive research; and

(3) $1 million for medical facility research and development project loans provided that:

(a) a loan may not be less than $200,000 or more than $500,000; and

(b) a dollar-for-dollar matching requirement from federal or private sources is required.

SECTION 4. SECTION 17-6-310, MCA, IS AMENDED TO READ:

"**17-6-310. No direct loans.** (1) The state may not use this revenue to make direct loans.

(2) ~~No--money--from-the~~ The Montana in-state investment fund may not be used by the board of investments to make direct loans to individual borrowers. The purchase of debentures issued by a capital company and loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans."

Section 5. Section 90-3-101, MCA, is amended to read:

"**90-3-101. Short title -- findings -- purpose.** (1) This chapter may be cited as the "Montana Science and Technology Financing Act".

(2) The legislature finds and declares that:

(a) it is the policy of the state of Montana to promote

the health, safety, and general welfare of all the people of the state;

(b) this policy will be furthered through strengthening and diversifying the state's economy by facilitating a public sector-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a changing economic structure and to create new jobs and expand business opportunities;

(c) this strengthening and diversification will be fostered by assisting in the acceleration of development of technology in the state through participation with the private sector in the financing of science and technology development projects that have significant potential for commercialization in Montana;

(d) the in-state investment fund created through adoption of Initiative Measure No. 95 by the voters of Montana in 1982 is the appropriate source for providing financing programs for the development of new and expanding businesses in Montana; and

~~(e) the--Science--and-Technology-Development-Board-Seed Capital-Bond-Act-contained-provisions-that-were-found-to--be unconstitutional--by-the-Montana-supreme-court,-and-the-51st legislature-of--the--state--of--Montana--must--remedy--those defects-through-legislation;-and~~

~~(f)~~ the Montana science and technology development

board has demonstrated success in forging a partnership among the private sector, the university community, and government, and this success should be continued through an ongoing legislative commitment to the board's programs.

(3) The purposes of this chapter are to:

(a) strengthen and diversify Montana's economy by establishing a public-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a transforming economic structure and to create new jobs and expand small business opportunities;

(b) provide a funding source for the board to make seed capital project loans;

(c) provide a mechanism for the board to use in making seed capital project loans; and

(d) provide a mechanism and a funding source for the board to use in making research and development project loans~~;--the--funding--source--of--which--will-be-provided-by separate-legislation~~."

Section 6. Section 90-3-102, MCA, is amended to read:

"**90-3-102. Definitions.** As used in this chapter the following definitions apply:

(1) "Act" means the Montana science and technology financing act.

(2) "Board" means the Montana board of science and

technology development provided for in 2-15-1818.

(3) "Company" means a firm, partnership, corporation, association, or any other entity authorized to conduct business in Montana.

(4) "Convertible debenture" means a debenture convertible into stock under certain conditions by any individual or company. The debenture may not be converted by the board.

(5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(6) "Department" means the department of commerce created in 2-15-1801.

(7) "Expansion capital project" means a science and technology development project undertaken to enable a company to expand its manufacturing and marketing activities in order to move its products or services into new markets or to expand existing markets.

(8) "Innovative technology" means the involvement of a product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(9) "Matching funds" means the funds received in cash by the science and technology development project loan

recipient from nonstate-appropriated sources and committed by the loan recipient to the project in an amount that is at least equal to the funds loaned to the recipient by the board for use in the science and technology development project.

(10) "Medical facility research and development project" means a research and development project designed to advance the development and operation of facilities that concentrate on fields of medical research involving advanced technology applied to national medical concerns through the financing of personnel, equipment, and operating costs with the goal of establishing the facilities as enduring research organizations in Montana.

~~(10)~~(11) "Portfolio company" means a startup or expansion stage company that has received a seed capital project loan from the board.

~~(11)~~(12) "Private sector" means any entity or individual, not principally a part of or associated with a governmental unit, that is associated with or involved in commercial activity.

~~(12)~~(13) "Research and development project" means a science and technology development project that falls into the category of research capability development, applied technology research, or technology transfer and assistance.

~~(13)~~(14) "Research and development project loan" means a

science and technology development project loan entered into between the board and a loan recipient for a research and development project.

~~(14)~~(15) "Science and technology development project" means either a seed capital project or research and development project designed to discover, develop, transfer, utilize, or commercialize existing or new, innovative technology in order to strengthen and enhance economic development in Montana.

~~(15)~~(16) "Science and technology development project loan agreement" or "loan" means an agreement entered into between the board and the loan recipient of a seed capital project loan or a research and development project loan that:

(a) creates a debt relationship between the parties;

(b) provides for a financial return to the board;

(c) provides economic development potential to the state; and

(d) contains the applicable provisions and terms required by this chapter.

~~(16)~~(17) "Seed capital project" means a startup capital project or expansion capital project.

~~(17)~~(18) "Seed capital project loan" means a science and technology development project loan entered into between the board and a loan recipient for a seed capital project.

~~(18)~~(19) "Startup capital project" means a science and technology development project that assists a company in initiating commercial operations.

~~(19)~~(20) "State" means the state of Montana.

~~(20)~~(21) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 7. Section 90-3-301, MCA, is amended to read:

"**90-3-301. Appropriation authority and funding -- matching funds.** (1) The board has authority to accept and expend all funds received by it as grants, donations, or other private or public income. These funds are statutorily appropriated as provided in 17-7-502.

(2) The appropriations and loans made to and by the board are in addition to and separate from general fund appropriations to the university system and other state agencies.

(3) A loan may not be made for a seed capital project for which matching funds have not been received. Matching funds are required prior to any expenditure of board funds for ~~research--and--development-projects-or~~ all seed capital projects. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require

additional matching funds, depending on the capital need and the degree of risk encountered in the ~~science-and-technology development~~ seed capital project.

(4) A loan may not be made for a research and development project for which matching funds have not been received unless the matching fund requirements are waived by the board pursuant to this section. Matching funds, when required, must be received before expenditure of board funds for a research and development project loan may be made. The board may waive the required match for up to 25% of the funding for research and development project loans if the board determines that the capital need and potential commercialization of the research and development project, in addition to its potential to strengthen the partnership between the public sector and private sector, warrant the waiver. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds depending on the capital need in the research and development project."

SECTION 8. SECTION 90-3-305, MCA, IS AMENDED TO READ:

"**90-3-305. Science and technology development account.** (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana in-state investment fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989."

SECTION 9. SECTION 90-3-524, MCA, IS AMENDED TO READ:

"90-3-524. Research and development project loan agreement -- specific requirements -- payback. In addition to the loan agreement provisions described in 90-3-522, a research and development project loan agreement must be structured as contracted debt with the following terms:

(1) The agreement must include provisions calling for a payback of at least two times the original loan amount paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the board's financing. This percentage rate may not exceed 5%.

(2) The payback on a research and development project loan for a technology transfer and assistance project may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of

the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. THE PAYBACK ON A RESEARCH AND DEVELOPMENT PROJECT LOAN FOR A TECHNOLOGY TRANSFER AND ASSISTANCE PROJECT MADE FROM THE IN-STATE INVESTMENT FUND MAY NOT BE REPAID IN TERMS OF INDIRECT BENEFITS."

SECTION 10. SECTION 90-3-525, MCA, IS AMENDED TO READ:

"90-3-525. Deposit of payback -- seed capital and research and development project loans. (1) The payback of principal and earnings on a seed capital project loan executed under this chapter or on a research and development project loan from the Montana in-state investment fund must be administered pursuant to section 17-6-306.

(2) The payback of principal and earnings on a research and development project loan from a source other than the Montana in-state investment fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(3) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use by the board. The paybacks include all those received after

January 1, 1989."

NEW SECTION. **Section 11.** **Intellectual property assessment.** The university system shall conduct an assessment of its intellectual property management programs and policies. Based on the assessment, the board of regents shall consider the adoption of a system of intellectual property management that will provide a coordinated and effective method of meeting payback requirements for research and development project loans made to organizations, individuals, and other entities within the university system. The assessment must be coordinated with the Montana board of science and technology development, and a final report and recommendations must be presented to the board by January 1, 1992.

NEW SECTION. **Section 12.** **Coordination instruction.** If Senate Bill No. 26 is passed and approved, if it includes a section that amends 17-6-308, and if it includes amendments that replace references to the "in-state investment fund" with "permanent coal tax trust fund", then in [~~section 3 of~~ this act~~, amending 17-6-308(4)~~], the code commissioner shall make ~~a~~ similar ~~change~~ CHANGES.

NEW SECTION. **Section 13.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part

remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 14.** **Effective date.** [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By FRANCIS BARDANOUVE, on April 4, 1991, at 7:00 a.m.

ROLL CALL

Members Present:

Francis Bardanouve, Chairman (D)
Ray Peck, Vice-Chairman (D)
Dorothy Bradley (D)
John Cobb (R)
Dorothy Cody (D)
Mary Ellen Connelly (D)
Ed Grady (R)
Larry Grinde (R)
John Johnson (D)
Mike Kadas (D)
Berv Kimberley (D)
Wm. "Red" Menahan (D)
Jerry Nisbet (D)
Mary Lou Peterson (R)
Joe Quilici (D)
Chuck Swysgood (R)
Bob Thoft (R)
Tom Zook (R)

Staff Present: Terry Cohea, Legislative Fiscal Analyst
Sylvia Kinsey, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Note: Chairman Bardanouve and Vice Chairman Peck alternated chairing the meeting.

HEARING ON HB 93

An Act to Impose a Utilization Fee on Nursing Facilities

Presentation and Opening Statement by Sponsor:

REP. JOHN COBB, HD 42, Augusta, said $1.25 fee for each bed day in the facility for FY 92 and $1.50 for each bed day in the facility during FY 93 for patients with insurance or Medicaid. The money is taken back and the federal government reimburses the state for the fees and it will be used to pay part of the re-basing which would be on the nursing homes. The $1.50 is only

cost of transportation and a cost of supporting a regional facility. **SEN. HALLIGAN** said that is a possibility but they feel they do not have the numbers in the rural counties but they need the ability to work cooperatively with other jurisdictions and other counties.

Tape 2,A

Closing by Sponsor: **SEN. HALLIGAN** said the federal act does say 1991. There are 28 kids statewide so they don't want to build a lot of facilities. They want to provide the alternatives to detention so that is why the bill provides that flexibility.

HEARING ON SB 242

An Act to Revise the Science and Technology Organization, Funding, and Programs

Presentation and Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, SD 45, Billings, said the Montana Science and Technology Alliance was formed in 1985 to do two things, to make investment decisions on seed capital money and research and development projects. This bill deals with research and development projects. In 1988, the Supreme Court struck down the original funding in the White case. In 1989, during the session, they created a new program where very strict goals and criteria were established to run the program. The seed monies in this bill are loaned with payback to the state. Strict guidelines will be set up as to how the money is to be handled.
SEN. CRIPPEN referred to Page 4, line 15, Section 3, Loans Repayment.

Proponents' Testimony: **Chuck Brooke, Director, Department of Commerce** said he wants to put into context the role of this program in Montana's over-all economic development strategy before getting into the technical aspects of the bill with the executive director. The strategy this bill implements is to bring technical business to Montana.

Carl Russell, Executive Director, Science and Technology Alliance said the effectiveness of this program will be on the decision making process of the Board. They are governed by extremely strict criteria in the existing legislation and with the help of the sponsors and **Greg Petesch,** they have tightened the bill up further. These are to be investments and loans between their organization, the state, and the researchers, or the units in the University System involved.

David Toppen, Deputy Commissioner for Higher Education ,said the designation of these funds, in particular, Montana Science and Technology Project, will be for the University System and for Biomedical Research elsewhere in the state. They have at the present time developed a very strong relationship between the University System units and the MSTA in the form of four state

designated Centers of Excellence, all of which have grown to the point of great contribution to the state's economic development already. The centers are located in Bozeman, Missoula, Butte and billings. In addition there is a federally designated Center of Excellence at Montana State University.

Sam Hubbard, representing Deaconess Medical Center, Billings, spoke in support of SB 242.

Questions From Committee Members: **REP. QUILICI** referred to Section 6 under Definitions, Page 9, Line 6, "Medical facility research and development project" and said yesterday they had a bill asking for monies for the McLaughlin Center in Great Falls. Would that Center fall under this category? **SEN. CRIPPEN** said it could.

REP. CONNELLY asked about Yellow Bay and the research center there and wondered if that was included here? **Mr. Russell** said the Yellow Bay Research facility was the subject of separate legislation which has not survived the process. However, to look at the language which defines those projects which could be funded through the process in the University System, Yellow Bay would qualify, provided there was the provision for payback.

REP. COBB said the loans previously have not been paid back very well, why don't they just call them grants because the concern he has is he doesn't mind giving the University percentage of excellence the money to do their research but to call it "loan" when, in fact, they may never get this money back. **SEN. CRIPPEN** said there certainly is a place in legislation for grants, however, they have a program that was set up in the early 1980s with coal tax funds that is for this type of development. It is appropriate when you have institutions like the National Science Foundation to come in and give grants that it be done on the loan basis. **REP. COBB** asked when do you write the loan off? **SEN CRIPPEN** said they tightened up this criteria substantially after the 1989 White case in order to make the loans fit the criteria. The stronger language in this bill requires matching funds in advance before the loan can be made. **REP. COBB** asked **Mr. Russell** if he has any policy yet when to call a loan non-repayable. The program has been started recently, but at some point there has to be some policy saying a loan can't be repaid. **Mr. Russell** said specifically they don't have a policy. In the past there was not a big return on the amount of money allocated. It is a long term process and the Board is extremely concerned about their personal fiduciary responsibility. **REP. COBB** asked if they were going to have some kind of bad debt accounts sooner or later? **Mr. Russell** said the original program did not have provisions for loans. The small amounts they put into the Centers of Excellence is the only program under the new rules. All of this money will go under the new rules.

REP. BARDANOUVE said he has concerns. The Legislative Auditor has just released a report, with the exception of the program

1985 to 1990, they have put out for projects and research $3,373,000 and have had a return of $6,700. He realizes many of these projects are long-term and may not have a financial return right away. Further on in the Auditor's report they say they believe MSTA should establish specific objectives to achieve their goals. They identify the lack of formal policies and procedures at MSTA that have caused inconsistencies in some operations. **Mr. Russell** said their response has been very little disagreement with the report and are either preparing or already have prepared changes in the program and in the management process.

REP. CODY said under their synopsis of the bill it says it allows the Board to waive certain matching requirements and asked **SEN. CRIPPEN** if that is still in the bill? He said it is still in the bill but has a limiting factor. **REP. CODY** asked who gets the royalties and how is it established? **Mr. Toppen** said at the present time they have an idea which looks like it will be potentially profitable and negotiate a deal, on more or less a separate basis, with their research Vice President and President on their respective campuses. There are no set University System policies that determine the percentage or rate of payback. That is what this bill will cause them to bring into effect. **REP. CODY** asked how they perceive the royalties to be split up or the contract they would draft as it would relate to the royalties. **Mr. Toppen** said there are two separate entities that are being created at the present time that will enable them to do a determination of what an appropriate split is; how much should go to faculty members, how much to institutions, how much to MSTA and how much to the state.

REP. KADAS asked if there will be payback provisions and interest provisions on the loan? **Mr. Russell** said the way the bill is stated, in combination with their existing regulations of legislation, the payback provision specifically works this way. In their contract they can demand, at least two times, the return they put in and can go beyond that. That is one of the changes seen in the legislation. That will be derived on an annual basis from the revenue stream which are the royalties of 5% per year.

REP. SWYSGOOD said most of this money is allocated to those research and development institutions that come up with an idea from which they can derive an income from a royalty and referred to Page 5, Section 5, that it was altered to a degree where this investment can be made. It looked to him as though the private sector is being denied the opportunity given that return because they cannot borrow any money from this investment. **Mr. Russell** said this particular section 4, the underlined words are "investments"-- and his understanding is the concern on the part of the private banking community at some point in the past was that there not be competition between the Board of Investment in direct loans so they used other mechanisms. That language does allow MSTA to do the seed capital program.

Closing by Sponsor: SEN. CRIPPEN said the good questions asked by the Committee is exactly why they have the bill to deal with some of the problems that have occurred in the past. This is the answer to some of those concerns that have been raised in previous practices. Anytime you can get a matching grant of $7,500,000 when you put in $600,000 is not a bad deal.

HEARING ON SB 259

Clarify Duty of DHES to Provide Consultation Services for Health Nurses

Presentation and Opening Statement by Sponsor: SEN. EVE FRANKLIN, SD 17 Great Falls, spoke to a very critical service, re-instituting clinical nursing, consultation services into the Department of Health. This service has a long history in the Department of Health. In 1987, due to some difficult financial circumstances, this service was eliminated as a line item elimination and a difficult decision for all. The Department is asking for two clinically, competent experts in community health to function as liaison and consultation professionals to community health nurses throughout the state. Communities throughout the state require the kinds of professional consultations that these nurses can offer. Most critically, are rural communities in which community health nurses are often the only health care provider. They frequently are functioning in isolated communities, sometimes in a professional vacuum where they don't have the backup they need to make clinical decisions they are asked to make.

Proponents' Testimony:

Barbara Booher, Executive Director, Montana Nurses' Organization, presented testimony **EXHIBIT 4 (8 letters).**

Teresa Henry, Montana Nurses' Organization is a community health nurse practicing in various areas for more than ten years, the last two in Montana. **EXHIBIT 5.**

Kathleen Manion, Montana Association of School Nurses, presented written testimony. **EXHIBIT 6.**

Questions From Committee Members: REP. SWYSGOOD asked if this is the first hearing this bill has had in the House? **SEN. FRANKLIN** said no. She came before Joint Sub-committee early in the session, and it's been heard as well in House Health and Human Services. **REP. SWYSGOOD** asked if this bill was amended in House Human Services? **SEN. FRANKLIN** said no. **REP. SWYSGOOD** said he noted this bill has a fiscal note attached to it that appropriates general fund monies. He asked how this started in the Senate? **SEN. FRANKLIN** said there was no difficulty. **REP. SWYSGOOD** said his concern is the Senate is not allowed to attach an appropriation bill. This is not the first time he has brought this up with some Senate bills. The Senate is treading on very

EXECUTIVE ACTION ON SENATE BILL 242

Motion: **REP. CODY** moved SB 242 be concurred in. Second Rep. Peterson

Discussion: **REP. KADAS** said he would like to see a little better track record.

Motion: **REP. KADAS** moved to amend SB 242 to reduce the 5.1 to 2.5 SB 242. Second Rep. Thoft.

Discussion: **REP. BRADLEY** spoke against the motion. The track record of the R and D program, coming out of the Science and Technology Alliance is very good. They have appropriated dollars for it in the past. It has been highly successful in doing what it was meant to do. Nobody has come up with any money this time so it has been called a loan. It is unfair to criticize the program. The audit is not that unfavorable.

REP. ZOOK supports **REP. BRADLEY** and does not believe they are taking money away from anybody. It is pretty worthwhile what they are trying to do, whether they accomplish it or not and opposes the motion.

Vote: Motion failed. Roll call vote # 2.

Vote: **REP. CODY'S** original motion SB 242 be concurred in carried, with Reps. Cobb, Peck, Bardanouve and Thoft voting no.

EXECUTIVE ACTION ON SENATE BILL 37

Motion/Vote: **REP. QUILICI** moved SB 37 be amended **(EXHIBIT 2)**. Second Rep. Cody. Motion carried unanimously.

Motion: **REP. KADAS** moved SB 37 be further amended **(EXHIBIT 3)**. Second Rep. Cody.

Discussion: **REP. QUILICI** said he believed they were told that with this amendment of $50, it would generate around $2,000,000. **REP. KADAS** said he asked to have that checked and that was wrong. The $50 generates $1,000,000 a year. They had originally tried to generate $2,000,000 and they had $100 fee so they cut that in half. **REP. QUILICI** asked if this money will be adequate that to handle this particular bill? A representative from the Board of Crime Control said they are estimating the state liability will be about $650,000 a year so it is more than adequate.

REP. THOFT asked if this is additional revenue? **REP. KADAS** said yes.

REP. GRINDE asked if the people who have the machines have been talked to and notified? **REP. KADAS** said he does not believe they have been talked to and this is the notification.

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE TIME 11:20 AM

DATE 4-3-91 BILL NO. 242 NUMBER 2

MOTION: Kadamus

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	✓		
REP. DOROTHY BRADLEY		✓	
REP. JOHN COBB	✓		
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY		✓	
REP. ED GRADY		✓	
REP. LARRY GRINDE		✓	
REP. JOHN JOHNSON		✓	
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY		✓	
REP. WM."RED" MENAHAN		✓	✓
REP. JERRY NISBET		✓	
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI		✓	
REP. CHUCK SWYSGOOD		✓	
REP. BOB THOFT	✓		
REP. TOM ZOOK		✓	
REP. FRANCIS BARDANOUVE, CHAIRMAN	✓		
TOTAL	5	12	

HOUSE STANDING COMMITTEE REPORT

April 4, 1991

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 242 (third reading copy -- blue) be concurred in .

Signed: Bardanouve
Francis Bardanouve, Chairman

Carried by: Rep. Bradley

SENATE BILL NO. 242

INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

THAYER, WILLIAMS

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES; CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, ~~AND~~ 90-3-301, ~~AND~~ 90-3-305, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1818, MCA, is amended to read:

"**2-15-1818. Montana board of science and technology development -- allocation -- composition -- quasi-judicial powers.** (1) There is a Montana board of science and technology development. The board is allocated to the department of commerce. The department shall select, prescribe the duties for, and supervise staff to administer board activities.

(2) The board consists of nine members appointed by the governor as prescribed in 2-15-124.

(3) In making appointments to the board, the governor shall consider people with extensive interest and experience in science and technology and the application of such interest and experience to economic development in Montana.

(4) The membership of the board must include:

(a) at least ~~two~~ three members with knowledge of early stage financing of private businesses;

(b) at least one member with expertise in applied technology development; and

(c) at least five members from the private sector.

(5) The board is designated a quasi-judicial board for purposes of 2-15-124."

Section 2. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsection (4), the Montana in-state investment fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee, in lieu of the actual acquisition of ~~such~~ the loans or bonds.

(2) The board may use the in-state investment fund to

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guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16, or Title 90, chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule establish the maximum ratio between guaranty funds available and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain ~~such~~ the ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed ~~$3,000,000~~ $3 million with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein. The board may agree in connection with the issuance of bonds or notes secured by such account or fund to make such loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1529, subject to the prior pledge of

the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer $7.5 million of the in-state investment fund for seed capital project loans and $5.1 million of the in-state investment fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994, for seed capital project loans and ~~June 30, 1993~~ for research and development project loans. Until ~~such time as~~ the Montana board of science and technology development makes a loan pursuant to ~~those~~ the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201."

NEW SECTION. **Section 3. Allocation of funds.** ~~"~~The PROVIDED THE LOANS CONTAIN THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522 AND 90-3-524, THE $5.1 million of the in-state investment fund to be used for research and development project loans is allocated as follows:

(1) $600,000 to meet state matching fund requirements for the national science foundation awards to the center for interfacial microbial process engineering~~, PROVIDED THE LOAN CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522 AND 90-3-524~~;

(2) $3.5 million for loans relating to but not limited

to the centers of excellence program and the Montana entrepreneurial center and to meet state matching fund requirements for the national science foundation's experimental program to stimulate competitive research; and

(3) $1 million for medical facility research and development project loans provided that:

(a) a loan may not be less than $200,000 or more than $500,000; and

(b) a dollar-for-dollar matching requirement from federal or private sources is required.

SECTION 4. SECTION 17-6-310, MCA, IS AMENDED TO READ:

"**17-6-310. No direct loans.** (1) The state may not use this revenue to make direct loans.

(2) ~~No--money--from-the~~ The Montana in-state investment fund may not be used by the board of investments to make direct loans to individual borrowers. The purchase of debentures issued by a capital company and loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans."

Section 5. Section 90-3-101, MCA, is amended to read:

"**90-3-101. Short title -- findings -- purpose.** (1) This chapter may be cited as the "Montana Science and Technology Financing Act".

(2) The legislature finds and declares that:

(a) it is the policy of the state of Montana to promote

the health, safety, and general welfare of all the people of the state;

(b) this policy will be furthered through strengthening and diversifying the state's economy by facilitating a public sector-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a changing economic structure and to create new jobs and expand business opportunities;

(c) this strengthening and diversification will be fostered by assisting in the acceleration of development of technology in the state through participation with the private sector in the financing of science and technology development projects that have significant potential for commercialization in Montana;

(d) the in-state investment fund created through adoption of Initiative Measure No. 95 by the voters of Montana in 1982 is the appropriate source for providing financing programs for the development of new and expanding businesses in Montana; and

~~(e) the--Science--and-Technology-Development-Board-Seed Capital-Bond-Act-contained-provisions-that-were-found-to--be unconstitutional--by-the-Montana-supreme-court;-and-the-51st legislature-of--the--state--of--Montana--must--remedy--those defects-through-legislation;-and~~

~~(f)~~ the Montana science and technology development

board has demonstrated success in forging a partnership among the private sector, the university community, and government, and this success should be continued through an ongoing legislative commitment to the board's programs.

(3) The purposes of this chapter are to:

(a) strengthen and diversify Montana's economy by establishing a public-private sector partnership to encourage scientific and technological development within the state in order to keep pace with a transforming economic structure and to create new jobs and expand small business opportunities;

(b) provide a funding source for the board to make seed capital project loans;

(c) provide a mechanism for the board to use in making seed capital project loans; and

(d) provide a mechanism and a funding source for the board to use in making research and development project loans~~;--the--funding--source--of--which--will-be-provided-by separate-legislation~~."

Section 6. Section 90-3-102, MCA, is amended to read:

"90-3-102. **Definitions.** As used in this chapter the following definitions apply:

(1) "Act" means the Montana science and technology financing act.

(2) "Board" means the Montana board of science and

technology development provided for in 2-15-1818.

(3) "Company" means a firm, partnership, corporation, association, or any other entity authorized to conduct business in Montana.

(4) "Convertible debenture" means a debenture convertible into stock under certain conditions by any individual or company. The debenture may not be converted by the board.

(5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(6) "Department" means the department of commerce created in 2-15-1801.

(7) "Expansion capital project" means a science and technology development project undertaken to enable a company to expand its manufacturing and marketing activities in order to move its products or services into new markets or to expand existing markets.

(8) "Innovative technology" means the involvement of a product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(9) "Matching funds" means the funds received in cash by the science and technology development project loan

recipient from nonstate-appropriated sources and committed by the loan recipient to the project in an amount that is at least equal to the funds loaned to the recipient by the board for use in the science and technology development project.

(10) "Medical facility research and development project" means a research and development project designed to advance the development and operation of facilities that concentrate on fields of medical research involving advanced technology applied to national medical concerns through the financing of personnel, equipment, and operating costs with the goal of establishing the facilities as enduring research organizations in Montana.

~~(10)~~(11) "Portfolio company" means a startup or expansion stage company that has received a seed capital project loan from the board.

~~(11)~~(12) "Private sector" means any entity or individual, not principally a part of or associated with a governmental unit, that is associated with or involved in commercial activity.

~~(12)~~(13) "Research and development project" means a science and technology development project that falls into the category of research capability development, applied technology research, or technology transfer and assistance.

~~(13)~~(14) "Research and development project loan" means a

science and technology development project loan entered into between the board and a loan recipient for a research and development project.

~~(14)~~(15) "Science and technology development project" means either a seed capital project or research and development project designed to discover, develop, transfer, utilize, or commercialize existing or new, innovative technology in order to strengthen and enhance economic development in Montana.

~~(15)~~(16) "Science and technology development project loan agreement" or "loan" means an agreement entered into between the board and the loan recipient of a seed capital project loan or a research and development project loan that:

(a) creates a debt relationship between the parties;

(b) provides for a financial return to the board;

(c) provides economic development potential to the state; and

(d) contains the applicable provisions and terms required by this chapter.

~~(16)~~(17) "Seed capital project" means a startup capital project or expansion capital project.

~~(17)~~(18) "Seed capital project loan" means a science and technology development project loan entered into between the board and a loan recipient for a seed capital project.

~~(18)~~(19) "Startup capital project" means a science and technology development project that assists a company in initiating commercial operations.

~~(19)~~(20) "State" means the state of Montana.

~~(20)~~(21) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 7. Section 90-3-301, MCA, is amended to read:

"**90-3-301. Appropriation authority and funding -- matching funds.** (1) The board has authority to accept and expend all funds received by it as grants, donations, or other private or public income. These funds are statutorily appropriated as provided in 17-7-502.

(2) The appropriations and loans made to and by the board are in addition to and separate from general fund appropriations to the university system and other state agencies.

(3) A loan may not be made for a seed capital project for which matching funds have not been received. Matching funds are required prior to any expenditure of board funds for ~~research--and--development-projects-or~~ all seed capital projects. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require

additional matching funds, depending on the capital need and the degree of risk encountered in the ~~science-and-technology development~~ seed capital project.

(4) A loan may not be made for a research and development project for which matching funds have not been received unless the matching fund requirements are waived by the board pursuant to this section. Matching funds, when required, must be received before expenditure of board funds for a research and development project loan may be made. The board may waive the required match for up to 25% of the funding for research and development project loans if the board determines that the capital need and potential commercialization of the research and development project, in addition to its potential to strengthen the partnership between the public sector and private sector, warrant the waiver. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds depending on the capital need in the research and development project."

SECTION 8. SECTION 90-3-305, MCA, IS AMENDED TO READ:

"**90-3-305. Science and technology development account.** (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana in-state investment fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989."

SECTION 9. SECTION 90-3-524, MCA, IS AMENDED TO READ:

"**90-3-524. Research and development project loan agreement -- specific requirements -- payback.** In addition to the loan agreement provisions described in 90-3-522, a research and development project loan agreement must be structured as contracted debt with the following terms:

(1) The agreement must include provisions calling for a payback of at least two times the original loan amount paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the board's financing. This percentage rate may not exceed 5%.

(2) The payback on a research and development project loan for a technology transfer and assistance project may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of

the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. THE PAYBACK ON A RESEARCH AND DEVELOPMENT PROJECT LOAN FOR A TECHNOLOGY TRANSFER AND ASSISTANCE PROJECT MADE FROM THE IN-STATE INVESTMENT FUND MAY NOT BE REPAID IN TERMS OF INDIRECT BENEFITS."

SECTION 10. SECTION 90-3-525, MCA, IS AMENDED TO READ:

"**90-3-525. Deposit of payback -- seed capital and research and development project loans.** (1) The payback of principal and earnings on a seed capital project loan executed under this chapter or on a research and development project loan from the Montana in-state investment fund must be administered pursuant to section 17-6-306.

(2) The payback of principal and earnings on a research and development project loan from a source other than the Montana in-state investment fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(3) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use by the board. The paybacks include all those received after

January 1, 1989."

NEW SECTION. **Section 11.** **Intellectual property assessment.** The university system shall conduct an assessment of its intellectual property management programs and policies. Based on the assessment, the board of regents shall consider the adoption of a system of intellectual property management that will provide a coordinated and effective method of meeting payback requirements for research and development project loans made to organizations, individuals, and other entities within the university system. The assessment must be coordinated with the Montana board of science and technology development, and a final report and recommendations must be presented to the board by January 1, 1992.

NEW SECTION. **Section 12.** **Coordination instruction.** If Senate Bill No. 26 is passed and approved, if it includes a section that amends 17-6-308, and if it includes amendments that replace references to the "in-state investment fund" with "permanent coal tax trust fund", then in [~~section 3 of~~ this act~~, amending 17-6-308(4)~~], the code commissioner shall make ~~a~~ similar ~~change~~ CHANGES.

NEW SECTION. **Section 13.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part

remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 14.** **Effective date.** [This act] is effective on passage and approval.

-End-